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The Solicitors' Journal

VOL. LXXVII. **Saturday, March 4, 1933.** No. 9

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Current Topics.

King's Counsel and the Crown.

THE considerable addition to the list of King's Counsel made last week offers a not inappropriate opportunity for calling attention to the change that has taken place from time to time in the relation of members of the Inner Bar to the Crown. As the title "King's Counsel" would imply, the barrister upon whom it was conferred was in early days really a servant of the Crown, in that he received a salary, exiguous in amount it is true, but one which no doubt he drew quite cheerfully. Further, if perchance he was a member of the House of Commons he had, as the holder of an office under the Crown, to resign his seat. The salary was withdrawn long ago, and the obligation to resign his seat on becoming a silk was abolished, but the nominal service of the Crown was maintained, and still continues, in a modified fashion, as is illustrated by the quaint and imperfectly punctuated declaration made by each new silk at the commencement of the new stage of his career. So curiously archaic are the terms of this declaration that it may interest readers to have it set out. It runs thus: "I do declare that well and truly I will serve the King as one of his Counsel learned in the Law and truly counsel the King in His matters, when I shall be called, and duly and truly minister the King's matters and sue the King's process after the course of the Law, and after my cunning for any matter against the King where the King is party save in so far as I may be therein allowed or licensed I will take no wages or fee of any man I will duly in convenient time speed such matters as any person shall have to do in the Law against the King as I may lawfully do, without long delay, tracting or tarrying the Party of his lawful process in that that to me belongeth I will be attendant to the King's matters when I be called thereto." By this we are reminded that at one time, and that not so very long ago, it was essential, if a King's Counsel was briefed to appear in any proceeding against the Crown, that he should procure a licence to do so, and the present writer well remembers hearing the late Lord JAMES OF HEREFORD, then Sir HENRY JAMES, who had been briefed for the appellant in an appeal to the Court of Crown Cases Reserved against a conviction, stating that the necessity of obtaining a licence in his favour had been overlooked but that the application was then being made. The obtaining of a licence was one of the last obligations linking a King's Counsel to the Crown in a special sense, but this too was removed a few years ago by the issue by His Majesty of a dispensation giving a general licence for King's Counsel to appear in any case against the Crown.

Statutory Duty to Fence Dangerous Machinery.

IT is not possible within the confines of a short note to do justice to the important issues raised in *Wheeler* v. *New Merton Board Mills, Ltd.* (reported in *The Times*, 28th February), where an infant plaintiff was awarded substantial damages in respect of personal injuries sustained as a result of a breach of the defendants' statutory duty to fence dangerous machinery as provided by the Factory and Workshop Act, 1901. The main points of the decision which centre round the three defences put up by the company may, however, be noted. The defence of "common employment" was excluded, said TALBOT, J., so far as the action was a breach of a statutory duty because the employer could not throw upon another the responsibility for failure to perform it: *Groves* v. *Lord Wimborne* [1898] 2 Q.B. 402. This was the case whether there had been contributory negligence or not: see *Watkins* v. *Naval Colliery Co.* [1912] A.C. 693, and *Pursell* v. *Clement Talbot, Ltd.*, 111 L.T. Rep. 827, although, it may be noted, there was no proper evidence of such negligence in the present case. The defence based on the principle *volenti non fit injuria* failed for the same reason: *Baddeley* v. *East Granville*, 19 Q.B.D. 423; *Davies* v. *Owen* [1919] 2 K.B. 39. A defendant, his lordship observed, "could not, merely because the same facts might constitute a cause of action at common law, defeat the rule that no acquiescence or consent could disentitle a plaintiff to recover for what in fact was a breach of statute for which an action lay." The third defence was based upon s. 29, sub-s. (1) of the Workmen's Compensation Act, 1925. The effect of the Court of Appeal's decision in *Rudd* v. *Elder Dempster & Co.* (1932), 49 T.L.R. 202, was (according to his lordship's statement) that an action to recover damages in respect of an injury for which compensation could be awarded under the Act lay only if it were proved that the injury was caused either (1) by the personal negligence or wilful act of the employer, or (2) by the personal negligence or wilful act of some person for whose act the employer was responsible, and that did not include a fellow-servant of the plaintiff by reason of the doctrine of common employment. The injury which the plaintiff had sustained in the present case was due, in part, to the negligence of a foreman who, it was not disputed, was a fellow workman of the plaintiff. It was therefore necessary to show that condition (1) had been verified. The learned judge contrasted the facts before him with those in *Rudd's Case, supra*, and came to the conclusion that there was an intentional doing of that which was in fact a breach of the Factory Acts and that that act was the act of the company. All the three defences outlined above therefore failed.

Fraudulent Preference: Evidence Required.

THE decision in *Re M.I.G. Trust, Ltd.* (reported in *The Times* of 1st March), emphasises the fact that affirmative evidence is necessary in order to support an accusation of fraudulent preference, negative evidence, such as might be deduced from the facts, not being sufficient. The question was whether, in failing to defend an application under s. 85 of the Companies Act, 1929, for leave to extend the time for registering a charge (as required by s. 79) a company had "suffered" within the meaning of s. 44 of the Bankruptcy Act, 1914, a judicial proceeding "with a view to giving [a] creditor . . . a preference over the other creditors." The M.I.G. Trust had deposited certain title deeds with the Gresham Trust as security for a loan. Instructions to withdraw opposition to the aforesaid application (which was made on the ground that failure to register was due to inadvertence) were given on 7th March, 1931; the order extending the time being made three days later. The M.I.G. Trust was then insolvent, and an order for its compulsory winding up, on its own petition presented on the 18th, was made on the last day of the same month. In the course of his judgment, Lord HANWORTH, M.R., alluded to the difficulties of the position. The managing director of the M.I.G. Trust, who gave the above instruction, "probably realised that if the security were made effective for one creditor there would be less for the creditors generally; at the same time it was rather hard on the Gresham Trust, who had lent money to the M.I.G. Trust to help them out of their difficulties, that they should be put in the position of unsecured creditors only." The Master of the Rolls found it difficult to assume that had the learned judge who made the order extending the time known the full facts he would have acted differently. The discretion given by the legislature to the court was in the widest terms (*Re Spiral Globe Ltd.* [1902] 1 Ch. 396). The necessity of affirmative evidence of fraudulent intent—or intention to prefer one creditor to another—is then dealt with. In this connection Lord ESHER'S words in *New, Prance and Garrard's Trustee* v. *Hunting* [1897] 2 Q.B. 19 (affirmed *sub nom. Sharp* v. *Jackson* [1899] A.C. 419) should be quoted: "The question whether there has been a fraudulent preference depends, not upon the mere fact that there had been a preference, but also on the state of mind of the person who made it. It must be shown not only that he has preferred a creditor, but that he has fraudulently done so. It depends upon what was in his mind. Whether it is called 'intention' or 'view' or 'object' does not appear to me to matter much. The question is whether in fact he had the intention to prefer certain creditors. It has been argued that the debtor must be taken to have intended the natural consequences of his act. I do not think that is true for this purpose. I think one must find out what he really did intend." In *M.I.G. Trust* the learned Master of the Rolls could not find sufficient evidence to establish the fact that what had been done was, in substance, done with the object of effecting a fraudulent preference, and the Court of Appeal reversed the decision of EVE, J., who had held that the registration of the charge was void as against the liquidator.

Rateability of Moorings.

AN additional authority to the number of cases dealing with the rateability of different types of moorings was furnished by the Divisional Court in *Gooding* v. *Benfleet Urban District Council* on 23rd February (*The Times*, 24th February). The appeal related to the occupation of the moorings of a houseboat under licence from the tenant of the bank. The moorings consisted of posts in the banks. On appeal to Quarter Sessions from the decision of the Assessment Committee to include the moorings in the Valuation List it was proved that for three years the owner of the houseboat in question had paid to the tenant of the bank £1 a year for the right to walk along duckboards from the bank to the houseboat, to moor to the posts, and to have access to the houseboat. Quarter sessions allowed Mr. Gooding's appeal with costs, holding that the only person rateable was the tenant of the bank, as the appellant had the exclusive use of both the moorings and the gangway under an annual licence from him. The Divisional Court allowed the appeal from Quarter Sessions, the Lord Chief Justice stating that the true inference from the facts of the case appeared to be that the appellant was in exclusive occupation of the moorings and the gangway. His lordship stated that *Cory* v. *Bristow*, 2 A.C. 262, was decisive of the matter, as in that case it was held by the House of Lords that the appellant, who had received permission from the Thames Conservancy to lay down moorings in the River Thames to which to attach a derrick hulk to facilitate the unloading of coal, was liable to be rated as he was to be treated as in occupation of part of the soil and bed of the river. Mr. Justice TALBOT and Mr. Justice CHARLES agreed; Mr. Justice TALBOT remarked that it was quite clear that a right granted by licence was not in itself a rateable hereditament, but that both an easement and a licence might involve rateable occupation. The case of a mere licence is exceedingly difficult to distinguish from that where an easement and a licence are combined. In *Watkins* v. *Milton-next-Gravesend Overseers* (1868), L.R. 3 Q.B. 350, a licence to fasten a coal hulk to moorings belonging to the conservators of the Thames was held not to make the owner of the coal hulk rateable: see also *Cory* v. *Greenwich Churchwardens* (1872), L.R. 7 C.P. 499. The new Divisional Court decision however marks a clear distinction between the two types of case.

Wild Birds' Protection.

LORD BUCKMASTER'S bill to abolish the practice of keeping a large variety of English wild birds in cages was read a second time in the House of Lords, and then referred to a Select Committee, on the understanding that they were to have considerable freedom in amending it. The reforms proposed are not of special interest to the profession as such, but its individual members will no doubt welcome the spirit of humanity and kindness which has been infused into our statutes regarding animals in general since the middle of the nineteenth century. Previous laws had little concern for them, save in respect of their value as food or property. Lord BUCKMASTER'S schedule is a wide one, and possibly some of the species mentioned bear captivity well enough to warrant their exclusion. Others pine and die quickly, and a law to prevent their being kept in cages would prevent wasteful and unnecessary cruelty. There is a saving for "Zoos," and perhaps some discrimination could also be made between cages and roomy garden aviaries. Cages too small for a bird to stretch its wings are already forbidden by s. 2 (1) of the Protection of Birds Act, 1928. It was suggested in debate that inquisitorial powers of search would be necessary to enforce such a law, but evidence of cruelty to indoor animals can now be obtained without search warrants, and caged birds kept illegally would normally be seen by servants and guests and possibly tradespeople. Another matter raised in debate on the same day was the lingering death of sea-birds coated and clogged with waste oil discharged from ships and floating on the waters. Lord LUCAN pointed out that the Oil in Navigable Waters Act, 1922, dealt with the matter so far as Parliament had power to do so, but the discharge of oil outside our territorial waters by foreign ships could not be prevented by our law. Obviously a convention is indicated to compel oil-fuel ships to carry separators. When the oil is properly separated, it is no doubt too valuable to waste, so there will be no temptation to masters of vessels carrying such machinery to practise this form of cruelty. Lord KILMAINE asked in debate whether a person would be justified in killing a bird saturated with oil. No humane person need hesitate a moment in doing so, for, even if the Wild Birds Protection Acts applied, no bench would convict in such circumstances.

Enticement Again.

THE case of *Tate* v. *Marshall* (*The Times*, 23rd February), went far enough to make public the plaintiff's alleged grievance as a husband against the defendant for "enticing" or alienating the affections of his wife, and not far enough to procure a ruling for the profession on the obvious questions of law involved. The plaintiff alleged that, owing to the action or persuasion of the defendant, his, the plaintiff's, wife, though continuing to live under the same roof with him, ceased to regard him with affection, and insisted on sleeping in a separate room. In that the wife continued to reside at least with the husband, the case, if it had been tried out, would have been sharply distinguishable from the other and no doubt well-remembered action recently before the same judge and the Court of Appeal, *Place* v. *Searle* [1932] 2 K.B. 497, on which we commented 76 SOL. J. 53. The question then would have arisen whether the mere alienation of affection without either enticing the wife away from her home or harbouring her elsewhere gave rise to a good cause of action. This point does not appear to be covered by English authority, for in the leading cases, *Winsmore* v. *Greenbank* (1745), Willes 577; *Lynch* v. *Knight* (1861), 9 H.L.C. 577; *Smith* v. *Kaye* (1904), 20 T.L.R. 261; and *Gray* v. *Gee* (1923), 39 T.L.R. 429, the plaintiff's spouse had left home owing to, on his or her case, the persuasion of the defendant. In America, however, there is direct authority that an action does lie in such circumstances: see *Rinehart* v. *Bills* (1884), 32 Mo. 534, 52 Am. Rep. 385. It was even suggested in that case that the continued residence aggravated the injury "from which an elopement might well be accepted in the nature of an alleviation." The legal implications arising from the denial of a wife of her husband's marital rights while living under the same roof with him were discussed in the cases *Synge* v. *Synge* [1901] P. 317, and *Davis* v. *Davis* [1918] P. 85. The question whether such a wife might successfully petition for divorce on her husband's adultery under the Matrimonial Causes Act, 1923, arose in *Plows* v. *Plows* (1928), 44 T.L.R. 263, when the court found that the wife's conduct had conduced to the husband's adultery, but in the circumstances granted her divorce.

Novelists' Law.

THE testimonial which Lord MACMILLAN gave, as we recorded recently, to the care which Mr. JOHN GALSWORTHY took to secure accuracy in matters of legal procedure in "Maid in Waiting," has led to further correspondence criticising his knowledge of law as shown in other books and in his plays. Mr. CLAUD MULLINS, of the North London Police Court, says that in "The Silver Spoon" litigants arrange a consultation with a K.C. through a junior and hold it without the intervention of a solicitor. Mr. MULLINS appears to forget that SOAMES FORSYTE, who suggested and arranged the consultation, was not only the defendant's father, but also her solicitor, though he figures in the novels more as a man of property and a connoisseur than a lawyer. On another point raised by Mr. MULLINS, that cases of murder, manslaughter and arson are not triable at sessions, Mr. GLYN-JONES replies that the Central Criminal Court is commonly spoken of as "Sessions," and is presided over by the Recorder of London. The author was not a practising member of the Bar, and if he occasionally makes a mistake in legal procedure or the correct formalities of a company meeting, these are trifling matters in comparison with the general accuracy of his law. If in the earlier part of "The Silver Spoon," it is suggested that slander of an ordinary kind is actionable without proof of special damage, there being no evidence of such damage, the reply is that the author probably knew his law quite well, but was at liberty, for the purposes of his story, to impute ignorance of the rule to one or two of his characters. The action when brought was for libel, not slander, and in the end both sides virtually lose. Mr. GALSWORTHY's law was certainly much above the average of novelists. There is one English novel, almost entirely written round the law of its day, which is a conspicuous exception to the usual rule—we refer to SAMUEL WARREN'S "Ten Thousand a Year." But then WARREN was not merely a novelist; he was a learned and able lawyer who later on took silk, and incidentally wrote a very successful novel, into which he crammed all the law he could—uses and trusts, fines and recoveries and the rules of evidence. WILKIE COLLINS' "Woman in White" was evidently written as propaganda against the difficulties and injustice of the law then relating to married women's separate property, and it must have assisted in the passing of the Married Women's Property Act, 1870. Another of his novels, "No Name," also deals largely with legal difficulties.

Arising out of ———.

IN the case of *The London & North Eastern Railway Company* v. *Brentnall* (77 SOL J. 116), a workmen's compensation appeal recently before the House of Lords, the facts were of somewhat unusual interest, and, in the view of the appellants' counsel, resulted in a position which had not precisely arisen before. Briefly, the respondent, an engine-driver in the employ of the appellant railway company, had, in the interval between two turns of duty, left the company's premises and gone to a hostel provided by the company for the use and convenience of their employees when away from the place of residence. If the employee, after he had "booked off" duty and before returning for his next spell, wished to stay elsewhere than in the company's hostel, permission was necessary. The respondent was, as the arbitrator found, under an obligation to go to the hostel for the purpose of getting sufficient rest. While in the hostel he slipped and injured himself slightly. On his subsequent claim for compensation under the Workmen's Compensation Act, 1925, on the ground that his injury had resulted from an "accident arising out of and in the course of" his employment, the arbitrator found in his favour, and his award was upheld by the Court of Appeal. The amount involved was very small, a few pounds only, but, as Lord BUCKMASTER pointed out in the House of Lords, the appellant railway company had said that it was not the amount in dispute that caused them to appeal, but their anxiety to try to secure some definite decision as to the true extent of their liability in such cases as the present. "I am afraid," added his lordship, "that it would be impossible to give them any ruling that will extend beyond the special facts and circumstances of this case." It was not, in his opinion, a prudent course to attempt to lay down general principles in cases of that kind, which might, in the end, be said to apply to matters which were not in the contemplation of the judge who was attempting to formulate them. In the result, in the present case his lordship held, and his decision was agreed unanimously, that while the respondent was in the hostel he was in the employment of the appellant company and was, as part of his contract of service, on the spot where the accident occurred; it further seemed to him indisputable that the accident arose out of the respondent's employment and was also in the course of it, if due weight was given to the circumstance that it was part of his employment that he should go to the hostel and take adequate rest. His lordship said that he had grave doubt whether quotations from other cases were of great assistance in these matters, and that it was wiser to confine each case to the particular circumstances on which it arose. The main point in the present case was whether the respondent at the time of the accident was at the hostel in pursuance of a duty owed by him to the company and arising out of his contract of service. The arbitrator found that he was, and that was really an end of the matter. The point seems to be clearly covered by the words of Lord ATKINSON in *Hewitson* v. *St. Helens Colliery Co.*, 16 Butterworth 230, where he said: "a workman is acting in the course of his employment . . . when he is doing something in discharge of a duty to his employer, directly or indirectly, imposed upon him by his contract of service,"

The Town and Country Planning Act, 1932.

By S. P. J. MERLIN, Barrister-at-Law.

ARTICLE IV.

THE provisions in the Act relating to the acquisition of land to which a scheme applies, by way of purchase by agreement, or by way of a "compulsory purchase order," will be seen in s. 25 and the Third Schedule respectively.

Summarising these very briefly, it will be seen that a planning authority, generally speaking, may purchase by agreement *any land* to which a scheme applies, which they require for the purposes of the scheme. And in particular they may purchase any such land (*a*) which they require for carrying out the improvement of frontages to any highway, or any proposed highway; or (*b*) which they require for securing the satisfactory development of land in accordance with the scheme in any case where it does not, for various reasons, appear to be reasonably practicable to secure such development otherwise than by purchase of the land.

Where the authority are unable to purchase by agreement they may, subject to certain restrictions, be authorised to purchase that land compulsorily by means of an order made and submitted to the Minister and confirmed by him in accordance with the provisions of Pt. I of the Third Schedule of the Act. The restrictions placed on the powers of planning authorities to purchase land under this s. 25 are to be found in Pt. II of the Third Schedule.

COMPULSORY PURCHASE ORDERS.

Comprehensive provisions as to the compulsory acquisition of land are contained in the Third Schedule of this Act. These provisions are too lengthy to set out here, but one or two features may be mentioned. A compulsory purchase order shall have incorporated in it the Lands Clauses Acts, and the Acquisition of Land Act, 1919, but subject to the following modifications:—

(1) The arbitrator shall not take into account any building erected or improvement made after the material date, if in the opinion of the arbitrator the same was not reasonably necessary and was carried out with a view to obtaining compensation or increased compensation.

(2) No person shall be required to sell a *part* only of any house, etc., if he is willing and able to sell the whole, unless the arbitrator determines that the part can be taken without material detriment to the whole, and if he so determines he shall award compensation also in respect of any loss due to the severance of the part.

Before submitting the order to the Minister the authority shall publish in a local newspaper a notice stating that the order has been made and describing the area affected, *and shall serve on every owner, lessee, and occupier* (except tenants for a month or less) of any land to which the order relates, a notice stating the effect of the order, and specifying the time within and the manner in which objections thereto may be made.

Where no objections are duly made by the above-named persons the Minister may confirm the order with or without modification, but in any other case he shall, before confirming the order, cause a local inquiry to be held, and shall consider any objection and the report of the person who held the inquiry, and may then confirm the order either with or without modification.

In cl. 5 of this schedule there is a proviso that the Minister may require any person who has made an objection to state the grounds in writing, and the order may be confirmed without causing a local inquiry to be held if the Minister is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the arbitrator by whom the compensation is to be assessed.

The provisions as to the *validity*, and date of operation, of compulsory purchase orders, made under this Act, will be found in Pt. III of the Third Schedule. Amongst other provisions it is laid down that if any person aggrieved by a compulsory purchase order desires to question the validity thereof, on the ground that it is not within the powers of this Act, or that any requirement of this Act, or of any order or regulation made thereunder, has not been complied with in relation to the order, he may within *six weeks* after the date on which the notice of its confirmation is published in accordance herewith make an application to the High Court, and upon any such application the court: (*a*) may by interim order suspend the operation of the order or of any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and (*b*) if satisfied that the order or any provision contained therein is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by any requirement of this Act, may quash the order or any provision contained therein, either generally or in so far as it affects any property of the applicant.

It is further enacted that subject to the above-mentioned provisions a compulsory purchase order shall not, either before or after it has been confirmed, be questioned in any legal proceedings whatsoever, and shall become operative at the expiration of six weeks from the date on which notice of its confirmation has been duly published.

PURCHASE OF LAND FOR OPEN SPACES AND PLAYING FIELDS.

It is shortly provided in s. 26 that where a county or county borough council require for the purposes of a public open space or a playing field any land to which a scheme applies, the provisions of the last preceding section with respect to the purchase of land, whether by agreement or compulsorily, by a responsible authority shall apply in relation to that land and to the council as if that council were the responsible authority and required that land for the purposes of the scheme.

Sections 27 to 34, inclusive, are entirely new. They contain various useful supplementary provisions with regard to town planning schemes which will enable them to be fairly made and properly administered. For example, s. 27 safeguards the owners of land adjoining scheme land by limiting the street work charges which may be levied upon them. And in s. 34 the power is given to authorities and owners of land to enter into agreements restricting the user of land.

PURCHASE OF LAND FOR GARDEN CITIES.

In s. 35 provisions will be found relating to the acquisition of land for the purpose of garden cities or extensions of same. These provisions are similar in effect to those of s. 16 of the T.P. Act of 1925, which are now repealed, and enable any local authority, or "authorised association," to acquire land (through the Minister of Health) for the purpose of founding garden cities. The expression "authorised association" is defined in sub-s. (7) as meaning any society, company or body of persons approved by the Minister, whose objects include the promotion, formation or management of garden cities and the erection, improvement or management of buildings for the working classes and others, and *which does not trade for profit*, or whose constitution forbids the issue of any share or loan capital with interest or dividend exceeding the rate for the time being fixed by the Treasury.

(*To be continued.*)

PETITION FOR NULLITY OF MARRIAGE (IMPOTENCE): VENUE.

It is directed by the President that a petition for nullity of marriage on the ground of impotence will, if filed in the Principal Registry, be ordinarily heard in London. No affidavit of venue will be required unless a party seeks to obtain an order, in special circumstances, for the petition to be heard at an assize.

The Coroner and his Jurisdiction.

A RECENT inquest has attracted some public attention on account of its alleged secrecy, due, it is hinted, to "diplomatic reasons."

"Diplomatic reasons" must not be confused with diplomatic immunity. The latter extends only to the persons of a foreign ambassador and his suite. It exempts them from the jurisdiction of our courts, civil and criminal. It covers them not only when they are within the embassy premises, which are considered extra-territorial, but elsewhere. *Bonâ fide* servants of the embassy, residing outside the premises, have even been held protected by it. But it has no application to nationals of a foreign country unless they can be brought within the above category. The immunity, originally founded upon international courtesy and in modern times laid down by the Statute of Anne 7 c. 12, since interpreted by numerous decisions in our courts, is a strictly legal one. It is a rule of positive law, not one of diplomatic etiquette. It can be claimed in open court.

It is arguable how far the jurisdiction of the coroner's court is excluded outside the embassy premises.

Section 3 (1) of the Coroners Act, 1887, makes it incumbent upon a coroner to hold an inquest where he has reasonable cause to suspect that a person has died "a violent or unnatural death, a sudden death of which the cause is unknown, or has died in prison, or in such place or circumstances where Statute requires an inquest," and he is informed that the "dead body of the person is lying within his jurisdiction." The foundation of his duty and his power is thus the dead body being within his jurisdiction. It does not matter where the death actually took place. The Act of Anne shields the person and goods of ambassadors and their suite, inside or outside the embassy. But a dead body is not a "person" or "goods." And it is difficult to stretch the doctrine of extra-territoriality beyond the embassy walls.

It may be mentioned that "Jervis on Coroners," 7th ed., p. 26, expresses the opinion that where the death of a member of a diplomatic suite occurs, even outside the diplomatic precincts, it would be advisable for the coroner to consult the Secretary of State before holding an inquest on the body. This work instances the case of a member of the suite of the Danish Embassy who was drowned in the Thames in 1913, and states that no inquest was held in deference to "representations made by the Ambassador." But this case would be no authority for any special procedure in the case of a private person, not a member of the suite.

Apart from diplomatic privilege, however, the coroner had undoubtedly full discretion to hold an inquest in private if he sees fit to do so. There is also clear authority that his court is a court of record: *Garnett* v. *Ferrand* (1827), 6 B. & C. 611. As the judge of such a court he has power to regulate its proceedings. He can choose when and where he shall hold it so long as he does not fix it for a Sunday or on licensed premises, though, apparently, he may even use that locale if there is no other suitable one available.

The question of the publicity of inquest proceedings was discussed during the Committee stage of the Coroners (Amendment) Act, 1926, and reference was made to the Report of the Departmental Committee on Coroners, 1910. This report, referring to the "law as it stands at present," said "the coroner has the same power to exclude the public from his Court as is possessed by Examining Magistrates under Section 19 of the Indictable Offences Act, 1848. We do not think that a sufficient case has been made out for altering the law and taking away the coroner's discretion. In certain cases no doubt publicity is of the greatest value, and, on the other hand, there are many cases in which no public end is gained by reporting the proceedings at an inquest. The gratification of a public curiosity cannot be weighed for a moment against the intense pain caused to the relatives of the deceased by the disclosure of family matters which may have nothing to do with the cause of death."

Finally, it must be remembered that, whilst the coroner has very wide powers as sketched above, and may use his discretion in the exercise of such, it is a judicial discretion and not an arbitrary one. Should he misuse his position and his powers there is a remedy. The inquest may be quashed and a fresh one ordered.

The Act of 1887, s. 6, gives power to the High Court to quash an inquest if improperly conducted. This may be done where owing to "fraud, rejection of evidence, irregularity of proceedings, insufficiency of enquiry, or otherwise, it is necessary or desirable, in the interests of justice, that another inquest should be held." The same section provides for compelling a coroner to hold an inquest if he refuses or neglects to do so, in a case where one ought to be held.

The Burden of Maintenance.

OUR daily contemporaries have been publishing frequent correspondence and occasional paragraphs on the subject of permanent maintenance. Particularly attention has been drawn to the burden imposed upon an ex-husband to support an ex-wife after her re-marriage and at possibly increasing charge with his increasing prosperity. Some of the letters even express incredulity that it should be so. Such uninformed public opinion is only to be expected in the absence of teaching of elementary law in the higher forms in schools, including the law of domestic relations.

Unfortunately the proposition, "'tis true, 'tis pity, and pity 'tis, 'tis true," and re-marriage of the ex-wife to a man in good circumstances may not by itself constitute a ground for reduction or discharge of the order. Besides, on general grounds, the husband has put himself out of court by his matrimonial offence in the main suit, and from the wife's point of view the after-taken husband may be regarded as a *pis aller* to whom the wife has resorted after the wrecking of her former matrimonial home.

The dilemma in one of the "hard cases" put forward in the evening press it is difficult to allow exists, owing to the private nature of proceedings before the registrar or judge in chambers. It is as follows:—

> "At the time of decree absolute the husband was earning £2,000 a year. For four years under the order of the court, he paid his wife £660 a year. She then married a well-to-do man. With her maintenance and his income they kept a fairly large house, ran a small car and kept a servant. The ex-husband married a woman without means. His business has declined, and to-day he is on the point of bankruptcy. He dare not apply to the court for reduction in the maintenance order, because the news of his position may reach the ears of his creditors."

It is the practice now in all maintenance orders directing payment to be expressed as being "until further order," and an ex-husband in such a position apart from his groundless fear of publicity, might well take heart from the dictum of the late Lord Cozens-Hardy in *Hall* v. *Hall* [1915] P. 109, viz.: "When an application is made for revision and when the original order has been made 'until further order,' it seems to me that the court ought to have regard to all the circumstances of the case in the same manner as if those circumstances had existed at the date of the original order."

Two recent decisions affecting the position of ex-husbands are *Mould* v. *Mould* (77 SOL. J. 117), and *Horniman* v. *Horniman* (77 SOL. J. 158).

The former deals particularly with "conduct of the parties" as a consideration to be weighed by the registrar in assessing maintenance. The registrar's duty has now been defined to extend to making a full investigation of a charge of adultery

against an ex-wife, although not pleaded in bar to the main petition, in effect, to trying what is virtually a divorce case.

The importance of *Horniman* v. *Horniman* is the emphasis laid on the difference between "the practice governing assessment of money provision after a suit for judicial separation and after one for dissolution." The "one-third rule" has no application in permanent maintenance. In assessing the amount the court is given a discretion to be exercised after giving attention to all the considerations prescribed by the statute, viz.: Judicature (Consolidation) Act, 1925, s. 190, and is not concerned with any rule of mathematical calculation. An ex-wife petitioner cannot rely on bringing an order based on as much as one-third of the joint incomes of herself and her ex-husband, to swell the resources of her new matrimonial home.

Company Law and Practice.

CLXXI.

PREFERENTIAL PAYMENTS AND DE-RATING.—II.

It is some few weeks now since I started in this column to deal with the subject referred to in the title, and I must apologise to my readers for the long, but unavoidable, delay in returning to the subject. I am afraid, in the circumstances, that I must remind my readers very shortly of the facts of the case which I began to discuss. *Re Airedale Garage Co. Limited: Anglo South American Bank* v. *The Company* [1933] 1 Ch. 64; the case which gave rise to the discussion. The company created a debenture containing a floating charge in favour of the plaintiff bank, under which a receiver was appointed on the 28th January, 1931. The receiver paid, after his appointment, all the rates then assessed upon the property comprised in the security.

There, you might think, so far as ss. 78 and 264 of the Companies Act, 1929, are concerned, the matter ended—but that is not so, hence this case. The statutes which were passed during the twenties with the object of relieving certain local ratepayers from some part of the pressing burden of rates take a hand in the matter; certain classes of property, defined as "industrial hereditaments," were exempted from 75 per cent. of the rates which would otherwise be assessed upon them, by a reduction of that percentage in the assessment. Not unnaturally, questions arose as to what were industrial hereditaments, and some of these questions had to be determined by the House of Lords. Now it so happened that a part of the property over which a receiver had been appointed in this case was property of a type which might be an industrial hereditament—but the highest available tribunal had not, at the time when the receiver was appointed, decided this momentous point.

Accordingly, the *Airedale Garage Co.'s* property had been provisionally assessed in the valuation list as an industrial hereditament, and therefore de-rated, though the final determination was not made at that time. Subsequently, the House of Lords decided that property of that class was not an industrial hereditament and accordingly the full value of the property was re-inserted in the valuation list, and a demand made for the difference between the rate actually paid by the receiver and what the rate would have been had there been no de-rating. All this took place, of course, after the appointment of the receiver. So far as the rates from the time when the receiver went into possession were concerned, the increased amounts were clearly the liability of the receiver; but he disputed his liability to pay, as a preferential debt, the increased amount in respect of the period before the date of his appointment.

Let us now turn to the report of the case. It seems really that the decision lies within a small compass, and depends upon the answer to this question: was this additional rate due at the relevant date, and had it become due and payable within twelve months next before that date? To consider s. 264 of the Companies Act alone, it is abundantly clear that the answer must be in the negative. But, argued the rating authority, the Companies Act alone does not determine the question; it is necessary to take other factors into account.

It may perhaps surprise some of my readers, all of whom I must assume to be good citizens who regularly and promptly pay their taxes, to know that when a rate is made, it is the duty of the person upon whom the rate is made to seek out the collector and pay him, without waiting for a demand. Such a duty is, however, more honoured in the breach than the observance at the present time. But the Rating and Valuation Act, 1925, very naturally contains certain retrospective provisions, particularly in ss. 37 (10) and 36 (2), to which I made reference in my earlier article on this topic. An amendment in the valuation list is, put shortly, under those sections, to be deemed to have had effect as from the commencement of the period in respect of which the rate under consideration was made, and payments by way of adjustment are then to be made.

Accordingly it seems possible to take the matter a step further by asking this question: is an amendment in a valuation list, which under the appropriate Rating Act is deemed to be retrospective, to have the effect of making the rate payable as a result of such amendment due and payable within the meaning of s. 264 of the Companies Act, 1929? No; said Eve, J.; but yes, said the Court of Appeal. It is perhaps worthy of observation that, even under the Rating Acts, such a sum could by no stretch of the imagination be said to have been due and payable on an earlier date, though it is no doubt correct to say that it is to be deemed to have been due and payable.

But if this last proposition is correct, can it be brought in to aid the construction of the Companies Act? Maybe this is so; it is obviously necessary to take some account of the Rating Acts, otherwise s. 264 cannot be construed at all. But where this line of thought seems to break down is here—import, or attempt to import, the Rating Acts, in aid of the interpretation of the Companies Act, and you only reach this point, that the rate in question is deemed to be due and payable. Surely between a sum due and payable (the wording of the Companies Act) and a sum deemed to be due and payable there is a great gulf fixed? Where a statute means to include both of these branches, it surely says so—consider property passing on the death and property deemed to pass on the death, in the Finance Act, 1894.

The judgments in the Court of Appeal all proceed on the footing that there is no difference between a sum due and payable and a sum deemed to be due and payable. Thus Lord Hanworth, at p. 78, says: ". . . the particular debt for additional rates must be deemed to have become due and payable within the period of the twelve months next before the relevant date." True, but that does not conclude the matter—the question is, was it due and payable, not, is it to be deemed to have been due and payable? Again, Lawrence, L.J., at p. 81: ". . . the increased sum must be treated as part of the original rate which had admittedly become due and payable within the specified period." Again, the question seems not to be—must it be treated as part of the original rate, but—was it in fact part of the original rate?

Logically, there seems to be very good ground for thinking that the decision of Eve, J., ought to have stood; and in conclusion those who hold the contrary view may like to think of an answer to this question: how can a sum be said to be due before the amount of it is ascertained?

(To be continued.)

Acton justices are to present a congratulatory address to Sir Thomas Forster, K.C., on 8th March, to mark his completion of twenty-one years as Justice of the Peace for Middlesex.

A Conveyancer's Diary.

Protective Trusts— *continued.*

BEFORE leaving clause (i) of s. 33 of the T.A., 1925, I must refer again to the unfortunate inclusion in it of an "attempt" to assign, etc. I mentioned *Re Wormald* (1890), 43 Ch. D. 630, as being (it seems) an authority for saying that where a married woman is restrained from anticipation, nevertheless if her life interest is subject to forfeiture as in clause (i) any assignment by her, although ineffectual, will cause a forfeiture. I have been told that that case is not an authority to that effect, but I think that it is, for, although it was held that there was no forfeiture, it is clear from the judgment that the learned judge considered that there would have been if an attempt to assign had been a ground for forfeiture.

The position seems to be exactly the same as that which arose in *Re Porter; Coulson* v. *Capper* [1892] 3 Ch. 481, which I also mentioned last week. That also was a case where the assignment was quite ineffectual, but it was held to be an "attempt," which it certainly was.

In view of these authorities I think that if the statutory clauses are adopted there ought to be an express proviso to the effect that an assignment by a married woman who is restrained from anticipating her income should not be deemed to create a forfeiture if by reason of the restraint such assignment would be of no effect.

Of course, as I have said before, I think that the words "or attempts to do" should be excluded altogether. Even where that is done it may be as well to insert a proviso to the effect just mentioned.

I will now turn my attention to clause (ii), which reads:—

"(ii) If the trust aforesaid fails or determines during the subsistence of the trust period, then, during the residue of that period, the said income shall be held upon trust for the application thereof for the maintenance or support, or otherwise for the benefit, of all or any one or more exclusively of the other or others of the following persons (that is to say)—

"(*a*) the principal beneficiary and his or her wife or husband, if any, and his or her children or more remote issue, if any; or

"(*b*) if there is no wife or husband or issue of the principal beneficiary in existence, the principal beneficiary and the persons who would, if he were actually dead, be entitled to the trust property or the income thereof or to the annuity fund, if any, or arrears of the annuity, as the case may be;

as the trustees in their absolute discretion, without being liable to account for the exercise of such discretion, think fit."

The discretionary trusts reposed in trustees under this and similar clauses should be exercised with caution, and it is generally dangerous for trustees to pay any part of the income to a beneficiary or to his creditors after an assignment by him or his bankruptcy.

A hard case where trustees were made liable for payments made after assignment is *Re Neil; Hemming* v. *Neil* (1890), 62 L.T. 649.

By the will of a testator a share of his estate was given to trustees upon trust during the life of one of his sons to pay and apply the whole or any part of the income or accumulations of income of the share for the support, maintenance or education or otherwise for the benefit of that son, his wife or children, in all respects as the trustees should in their uncontrolled discretion think fit. The son assigned his interest by way of mortgage to the plaintiff, who gave notice of the assignment to the trustees. Afterwards the trustees made payments to the son out of the income of his share.

It was held that the assignment passed all the beneficial interest of the son in the income, and that it must be assumed that money paid by the trustees to him or to any person on his behalf was his in their irrevocable determination immediately before the payment. Consequently the trustees were held to be liable for all sums paid to or on behalf of the son after they had received notice of the assignment.

Another case of importance is *Re Coleman; Henry* v. *Strong* (1888), 39 Ch.D. 443.

The trust there was to apply the income of a testator's estate "in and towards the maintenance, education and advancement of my children in such manner as they shall deem most expedient until the youngest of my said children attains the age of twenty-one years," and on the happening of that event he directed his trustees to divide his estate equally among all his children then living. The testator left four children, two of whom were of age. The eldest son made an absolute assignment of all his interest under the testator's will. The trustees declined to pay the fourth share of the income to the assignee who claimed it.

It was held by the Court of Appeal that the son was entitled to no interest in the income, except such moneys or property as might be paid or delivered or appropriated for payment or delivery by the trustees to the son, and that the trustees could not pay or deliver to the son money or goods forming part of the income or purchased out of the income for such moneys, and goods so paid or delivered or appropriated to be paid or delivered would pass by the assignment. North, J., added, however, that if, instead of doing that (i.e. making such payment or delivery to the son), the trustees saw fit to apply the income in some other way for his benefit, they might do so, and the assignee would not take the benefit of such provision.

It seems that the time at which the destination of any instalment of income is to be determined is the moment at which that instalment either becomes due or is in the hands of trustees ready for application under the trusts of the will (see *Re Sampson* [1896] 1 Ch. 630).

It has also been decided that the Apportionment Act does not apply, so that an assignee claiming under an assignment which causes forfeiture, although he is entitled to any income accrued, or in the hands of trustees at the date of the assignment, is not entitled to a proportioned amount of accruing income up to that date (*Re Jenkins: Williams* v. *Jenkins* [1915] 1 Ch. 46).

There is a further point which does not, perhaps, concern the trustees, but is of importance to the objects of the discretionary trust. If the principal beneficiary should become bankrupt and thereby forfeit his life interest, and the trustees pay to him or on his behalf more than is reasonably necessary for his support, his trustee in bankruptcy can insist upon the bankrupt accounting to him for the excess income so received or expended (*Re Ashby: Ex parte Wreford* [1892] 1 Q.B. 872, 877).

It does not seem to have been held, however, that in such a case the trustees would be liable to the trustee in bankruptcy for the excess income paid to the bankrupt, although it is difficult to see why they should not, having regard to the decision in *Re Neil*.

It is obvious that trustees have a rather perplexing duty thrown upon them by the discretionary trusts, and it will often not be an easy matter to advise them what they should do. Generally they will be safe in applying income to a reasonable extent in supplying the current needs of the beneficiary who has forfeited his interest, but not in paying debts incurred by him, and certainly not in just continuing to pay the income to a bankrupt beneficiary as though there had been no forfeiture regardless of whether the income is or is not more than sufficient for his support.

I hope to pursue clause (ii) further next week. I shall have something to say regarding the objects of the discretionary trusts provided for in that clause which might be amended in that respect, and also as to the duties and powers of trustees having regard to the authorities.

Landlord and Tenant Notebook.

Loitering with Intent to Commit a Felony.

THE Vagrant Act, 1824, s. 4, created the offence of "being a suspected person," as the newspapers commonly call it. More fully, the frequenting of a street, place of public resort, etc., by a suspected person or reputed thief with intent to commit a felony. The Prevention of Crimes Act, 1871, s. 15, laid down that no particular act showing purpose or intent need be proved, the offence being complete if the Bench is satisfied from the accused's character and the circumstances of the case that he intends to commit a felony. The Penal Servitude Act, 1891, s. 7, inserted, in effect, "or loitering" after "frequenting," probably in consequence of the decision in *Clark* v. *The Queen* (1884), 14 Q.B.D. 92, when an appeal by a suspect who was not proved to have visited the scene of his operations more than once was reluctantly allowed.

By using the word "created," I do not mean to suggest that justices were unable, before the passing of the 1824 Act or of the temporary measure it superseded, to deal with suspicious characters. When their functions were largely executive it was probably part of their work. And readers may recall the instructions given by Chief Constable Dogberry to his men, which, though Act III, Sc. 3, of "Much Ado About Nothing," is laid in Messina, were probably conceived in the spirit of Shakespearean England. Among the instructions we find: "This is your charge; you shall comprehend all vagrom men"; and "If you meet a thief you may suspect him . . ., to be no true man . . . Let him show himself what he is . . ."

The use of the short expression "being a suspected person" is to be deplored in that it suggests a state of affairs quite at variance with the spirit of our laws. Nor is it in keeping with the policy of the criminal law in general that an intention to offend should be punishable; apart from difficulties of proof, there is the possibility of a change of intention; and change of mind may (this for the benefit of more cynical readers) be brought about not only by change of heart, but also by change of fortune.

And the latest authorities dealing with this enactment have stressed the possibility of its abuse. In two cases which came before the Court of Criminal Appeal as appeals against sentences imposed by Courts of Quarter Sessions, the learned judges, while unable to quash the convictions, marked their sense of uneasiness by reducing sentences to one day's imprisonment. The nature of the trouble appears from the following passages. In *R.* v. *Dean* (1924), 18 Cr. App. R. 133, the Lord Chief Justice said: "A police officer said he was afraid he [accused] had been getting his living by house-breaking. If that is so, he has been singularly lucky in not being convicted or even charged. It looks very much as if it was thought that there was not enough evidence to charge the applicant with attempted house-breaking, and this other method was adopted. It would be in the highest degree unfortunate if in any part of the country those who are responsible for setting in motion the criminal law should entertain, connive at or coquette with the idea that in a case in which there is not enough evidence to charge the prisoner with an attempt to commit a crime, the prosecution may, nevertheless, on such insufficient evidence, succeed in obtaining and upholding a conviction under the Vagrancy Act, 1824." While in *R.* v. *Cadwell* (1927), 20 Cr. App. R. 60, in which the facts were similar, Talbot, J., remarked that the Act was not intended "as a convenient method of supplying a hiatus in the evidence of felony."

Now these utterances suggest, at first sight, that no one ought to be convicted of loitering with intent to commit a felony unless he could have been convicted, on the same evidence, of attempting to commit a felony; in other words, that the Vagrant Act, 1824, s. 4, is a dead letter.

But if one reads the judgments as laying down that a man is not to be convicted of loitering with intent merely *because* there is insufficient evidence of an attempt, there remains some scope for the Vagrant Act; for it is conceivable that a man may loiter with intent to commit a felony without any opportunity arising for him to make an attempt.

For while every felony actually committed is necessarily the fulfilment of an intention and the successful accomplishment of an attempt (the intent being first formed, but continuing throughout; while the attempt, which is the second stage of course ceases with its success), the difference between intention and attempt is not one of degree, but of kind. This was pointed out in *R.* v. *Marks Landow* (1913). 77 J.P. 364, an appeal against a conviction for attempted procuration, which succeeded on the ground of misdirection, "The learned recorder . . . should have directed the jury that for these words to constitute an *attempt* at procuration, they must show an *effort* on the part of the appellant to make his wife go to Buenos Aires. And that if it were possible to construe them as merely expressing a desire that she should go, or an intention at some future time that she should go, that would not be an attempt."

Incidentally, it may be pointed out that as the law now stands, an attempt to commit a felony may be made though it could not, owing to absence of subject-matter, have succeeded. In *R.* v. *Ring* (1892), 61 L.J.M.C. 116, three pickpockets were convicted of attempting to steal, though there was no evidence that the pockets they had attempted to pick had contained anything, and an older decision to the contrary, *R.* v. *Collins* (1864), 12 W.R. 886, was overruled.

There are one or two problems worth mentioning which have not yet been disposed of. Does "a felony" mean any felony, or some particular felony? It is, of course, difficult to imagine a suspected person loitering with intent to commit any felony, from murder downwards, he may get a chance to commit; but it is equally easy to imagine a reputed thief frequenting some place with intent to commit simple larceny or robbery with violence, according to the nature of the first opportunity which occurs. Further, there may be evidence of loitering with criminal intent, but not sufficiently defined to warrant a conclusion that a felony, as opposed to a misdemeanour, was contemplated; e.g., the frequenting of some place of public resort, and the accosting of other frequenters, by some plausible rascal whose police record evidences an equal number of convictions for larceny by a trick and for obtaining money by false pretences; or loitering in a market by one equally well known as a dog-stealer and a cattle-stealer.

Also, it is submitted that the commission of a felony must be the object of the loitering; the section says loitering *with* intent, not loitering *and* intending; so that an intending burglar making a survey, by daylight, of premises he intends to break into at night would not be liable under the Vagrant Act. The point has not, I believe, been decided; but the general policy of the criminal law referred to in my third paragraph supports this view. But whether the commission of a felony must be the sole object of the loitering, *quære*; and I will conclude with putting forward the following hypothetical case: X, a retired pickpocket, goes to a railway terminus to meet a friend. The train is late, and X, succumbing to temptation, forms the subsidiary intention of picking the pockets of railway passengers. Is he liable to be convicted under s. 4 of the Vagrant Act, 1824?

Our County Court Letter.

PERSONAL INJURIES FROM DANGERS UNDERFOOT.

THE above subject has been considered in two recent cases. In *Davies and Wife* v. *Birks*, at West Hartlepool County Court, the claim was for £88 as damages for negligence, viz., failing to keep in repair the prism lights on the pavement outside the defendant's china shop. The plaintiffs' case was that on the

23rd April, 1932, the grid of a prism light was broken, leaving a hole (four inches by two inches) in which the female plaintiff caught her foot, thereby falling heavily. The defence was that (1) the pavement was slippery, owing to rain and sleet, and the only hole in the prism was about the size of a florin; (2) the frame was in excellent condition, and (as the prism containing the small hole was at once replaced) there was no negligence. His Honour Judge Richardson accepted the evidence for the defendant, and gave judgment accordingly, with costs. A point for consideration in such cases is whether the pavement light is vested in, and repairable by, the local authority, so that the frontager is freed from liability. See *Jones* v. *Rew* (1910), 103 L.T. 165, and *Horridge* v. *Makinson* (1915), 31 T.L.R. 389.

In *Jeavons and Wife* v. *Fletcher*, at Walsall County Court, the plaintiffs claimed damages in respect of medical expenses incurred (and for injuries received by the wife) through falling down the cellar steps of the Wheatsheaf Inn, Cannock, of which the defendant was licensee. The plaintiffs' case was that (1) on Christmas Eve, the passage to the ladies' lavatory was full of customers, and the wife missed the door in the darkness; (2) she continued through a door, which (though marked "Private") was fastened back; (3) on feeling her way through another door, it gave way, and she fell into the cellar; (4) these doors were kept open on that occasion, to facilitate visits to the cellar during a busy evening. The defence was that (*a*) there was no congestion in the passage, which was not dark; (*b*) the wife was guilty of contributory negligence in passing through a doorway without knowing it, and without making inquiries; (*c*) although an invitee in the licensed premises, the wife was no longer an invitee after passing a door marked "Private." His Honour Judge Tebbs remarked that, although a person might pass a closed door (marked "Private") at his peril, the position was different if the door was open. Judgment was therefore given for the husband for £25 and costs, and for the wife for £60 and costs, subject to a stay of execution for twenty-one days. For a prior reference, see the "County Court Letter" in our issue of the 29th October, 1932 (76 Sol. J. 758).

SCOPE OF SOLICITOR'S RETAINER.

In the recent case of *Neild* v. *Paxton*, at Leeds County Court, the claim was for £36 8s. 10d. for professional services, in respect whereof the defendant had tendered £12 11s., which had been accepted on account. The evidence was that (1) having acted for the vendor at an auction, the plaintiff was also instructed to act for the defendant, as purchaser; (2) the defendant's husband subsequently intimated that, as she had not understood the transaction, any proceedings for specific performance would be defended; (3) the plaintiff therefore terminated his retainer (as solicitor for the defendant) on the 21st July, but he wired her new solicitor (on the 27th July) as follows: "Received definite offer of £2,000 for Elton Lodge. Will your client consider this figure in preference to risking a re-sale?" The defendant's solicitor accepted, and the plaintiff contended that this revived his retainer, whereby he could charge a negotiating fee. His Honour Judge Woodcock, K.C. (having quoted 16 Luke 13) observed that, in a letter of the 17th August, the plaintiff was primarily concerned with the interests of the vendor, to whom it was immaterial that the sale might be prejudicial to the defendant. The latter's interest demanded, however, that the plaintiff should obtain the highest possible price, but (in so doing) the plaintiff might lose the sale, and so prejudice the vendor. In this conflict of interests, the plaintiff owed a prior duty to the vendor, and the defendant was therefore not his client. Judgment was accordingly given for the defendant, with costs.

Mr. Arthur Stuart Legg, solicitor, of Nutfield, Surrey, and Bedford Row, left £21,399, with net personalty £8,940.

Reviews.

Who's Who, 1933. Demy 8vo. pp. xlviii and 3608. London: A. & C. Black, Ltd. 60s. net.

The new edition of *Who's Who*, that valuable annual biographical dictionary of people of note, has recently been published, and makes the eighty-fifth of the series. The number of biographies has been greatly increased, and this year the volume contains nearly 40,000 in their usual concise and accurate form. Well bound in buckram, *Who's Who*, 1933, is as indispensable as ever for all those who require an authoritative guide of this nature.

Books Received.

Glen's Law Relating to Public Assistance. By Randolph A. Glen, M.A., LL.B. (Cantab.), Recorder of Penzance, of the Middle Temple and Western Circuit, assisted by E. Bright Ashford, B.A., of the Middle Temple and South-Eastern Circuit, and Alexander P. L. Glen, Solicitor of the Supreme Court. 1933. Demy 8vo. pp. xliii and (with Index) 786. London: Law & Local Government Publications, Ltd. 30s. net.

A Digest of Law and Arbitration Cases, 1932. Edited by a Barrister-at-Law. 1933. Demy 8vo. pp. xxxii and 331. London: The Estates Gazette, Ltd. 15s. net.

The Law of Agency. By Raphael Powell, M.A., B.C.L. (Oxon), of the Middle Temple, Barrister-at-Law. 1933. Demy 8vo. pp. xxxi and (with Index) 189. London: Sir Isaac Pitman & Sons, Ltd. 7s. 6d. net.

Stone's Justices' Manual, 1933. Sixty-fifth Edition. Edited by F. B. Dingle, solicitor, Clerk to the Justices, Licensing Justices, etc., for the City of Sheffield. Demy 8vo. pp. cclxxxii and (with Index) 2,284. London: Butterworth and Co. (Publishers), Ltd.; Shaw & Sons, Ltd. 37s. 6d. net. Thin edition, 5s. extra.

The Lawbreaker. A Critical Study of the Modern Treatment of Crime. By E. Roy Calvert and Theodora Calvert, Barrister-at-Law, Inner Temple. 1933. Crown 8vo. pp. xiv and (with Index) 294. London: George Routledge and Sons, Ltd. 7s. 6d. net.

Some Aspects on the Measurement of the Wastage of Fixed Capital. By W. A. Stewart Jones, F.S.S. 1933. London: Gee & Co. (Publishers), Ltd. 6d. net.

The Elements of Economics. By W. A. Stewart Jones, F.S.S. 1933. London: Gee & Co. (Publishers), Ltd. 6d. net.

Incomplete Records. The Preparation and Audit of Accounts. By K. Adlard Coles, M.A., F.C.A. 1933. Demy 8vo. pp. x and (with Index) 149. London: Gee & Co. (Publishers) Ltd. 7s. 6d. net.

Lectures on Mercantile Law. By M. R. Emanuel, Barrister-at-Law. 1933. Demy 8vo. pp. (with Index) 254. London: Gee & Co. (Publishers), Ltd. 8s. 6d. net.

The Round Table. A Quarterly Review of the Politics of the British Commonwealth. No. 90. March, 1933. London: Macmillan & Co., Ltd. Price 5s.

Journal of Comparative Legislation and International Law. Third Series. Vol. XV. Part I. February, 1933. London: Society of Comparative Legislation. Price 6s.

Lunacy and Mental Treatment Acts, 1890 *to* 1930. By E. J. Lidbetter. 1933. Crown 8vo. pp. vii and (with Index) 181. London: Law & Local Government Publications, Ltd. 6s. 9d. net.

Notable British Trials—The Royal Mail Case. Edited by Collin Brooks. 1933. Demy 8vo. pp. xliii and 276. Edinburgh and London: William Hodge & Co., Ltd. 10s. 6d. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Party Wall—Building Erected Against.

Q. 2668. A party wall was erected before 1926. One of the owners has erected a wooden structure on his half of the wall. Has the adjoining owner any right to have this removed ?

A. It is no exaggeration to say that no one knows exactly what are the respective rights of the adjoining owners. *Jones* v. *Pritchard* [1908] 1 Ch. 630 appears to be the only case dealing at length with the rights of the parties where a wall was divided before 1925 by vertical severance along the centre line. In that case Parker, J. (afterwards Lord Parker), speaks of such easements as may be necessary to carry out *the common intention* of the parties with regard to user, and says that, subject to those easements, the owners may respectively deal with their respective moieties in such manner as they please. It seems clear that before the L.P.A., 1925, the adjoining owner could have removed the structure (unless the circumstances under which the wall was constituted a party wall afforded evidence of intention to permit such erection), for, as Fry, J., in *Watson* v. *Gray* (1879), 14 Ch. D. 192, said (quoting Crompton, J., in an earlier case), the adjoining owner might have wanted to run along the top of the wall. The opinion is given with some diffidence that the words in Pt. V, para. 1, of the Transitional Provisions " such . . . user over the rest of the structure as may be requisite for conferring rights corresponding to those subsisting at the commencement of the Act " give the adjoining owner the same right to remove the structure as he had before the Act ; and this right of removal appears to be the only remedy.

Yearly Letting of Farm—Parol Variation of Rent.

Q. 2669. In 1912 A let a farm to B at the yearly rent of £62 10s. During the war this rent was increased, by mutual agreement, to £82 10s., and this increased rent has been paid by B ever since without demur. The tenancy was determined by B last Lady-day twelve month, and he still owes a half-year's rent. On application being made for this rent, B's solicitors contend that as the tenancy was never determined by notice to quit, the agreement to pay the increased rent is void, and this being so, not only is there no sum due to A, but a substantial sum has been overpaid. There was a tenancy agreement signed when B took the farm, in 1912. Is the contention of B's solicitors correct ? In view of the fact that it has been held that if whilst a tenant from year to year is in possession of lands under an agreement reserving a certain rent he agrees with his landlord to pay an increased or reduced rent this will not have the effect of creating a new tenancy, surely there is no necessity to determine the existing tenancy.

A. Although no direct authority can be quoted, it is considered that after this length of time it would be assumed that the consideration for the promise to pay the increased amount was the forbearance of A to give B notice to quit, which would be a perfectly good consideration. Under no circumstances could B recover the amount of the excess rent paid, there being no mistake of fact.

Wooden Buildings—Charge on.

Q. 2670. A, B and C are brothers. A and B are joint owners of a plot of freehold land. C uses the land for the purpose of a garage. C has erected a number of wooden buildings on the land, and A and B are prepared to sign a memorandum that these buildings are the property of C. C wishes to give a charge of these buildings to the bank. Can this be done without creating a bill of sale ?

A. It is obvious the buildings must either be classed as chattels or fixtures. In either case a charge on these alone would be a bill of sale, which would require to be in the statutory form and registered. If A and B like to lease the land and buildings to C at a low rent, with special power to remove the buildings or any other buildings erected by C (treating them as fixtures), and C executed a legal charge or mortgage by sub-demise, without attempting to charge the buildings separately, no one would be likely to challenge the security, and, though it might not give the bank a right to sell the buildings separately, it would give a right to dispose of the lease with the accompanying right of removal of fixtures. If the lease gave the lessee power to determine at, say, six months' notice, the purchaser, if the security had to be enforced, would in effect be able to remove the buildings subject to paying rent up to the expiration of notice to determine.

L.P.A., 1925, s. 84 (1)—Whether an Order Giving Compensation Must be Acted On or Not.

Q. 2671. The authority have power by order to discharge or modify any restriction as to the user of freehold land (subject or not to the payment by the applicant of compensation to any person suffering loss in consequence of the order). Your opinion is asked as to whether, when such an order is made subject to payment of compensation, the applicant is bound to make the said payment, or is the order in the nature of an option to the applicant, either to pay the compensation and so obtain the benefit of the order for discharge or modification, or not pay the compensation, and so leave the restriction in full force. The words of the section do not seem to provide any means for the enforcement of any payment subject to which an order is made, and the form of the order given in the Schedule to the Rules of 19th November, 1925, does not seem to carry the matter further, nor can I find that the point has been considered by the court.

A. We do not think that there is any authority upon this point. Taking into consideration that there does not appear to be any power given to the " Authority " to enforce the payment of the compensation, and that the order does not come fully into operation until the whole of the compensation is paid (Law of Property (Restrictive Covenants Discharge and Modification) Rules, 1925 (S.R. and O., 1925, 1182/L. 36), r. 16(1)), we express the opinion that there is no obligation to pay the compensation and take the benefit of the order ; that is to say, that the order is (as suggested) in effect, somewhat in the nature of an option, either to pay and get the benefit of the order, or not to pay and let matters slide.

Copyhold for Years not Perpetually Renewable—Extinguishment of Manorial Incidents.

Q. 2672. Copyholds.—We act for the owner of property, the title deeds of which commence with a lease, dated 1768, from the lord of the manor. This recites a previous lease for lives from the lord " at the Will of the Lord according to the custom of the said Manor." From other recitals in the lease of 1768, it appears that the lease for lives could be determined at the request of the lessee and by the lease of 1768 he made such

request in consideration of the lord granting him a lease for 500 years. The only words in the lease of 1768 to show that the property was copyhold are in the recital which states "it being the intention of the said parties that the estate so granted as aforesaid shall continue and be as at the time of granting the same and that the same shall remain a copyhold of the said manor of . . . ." A rent of 6s. 8d. was reserved payable to X "his heirs and assigns Lords of the said Manor of . . ." This deed was enrolled at a manor court but since 1821 all assurances have been common law assurances and none have been enrolled, but the rent has been paid. The steward has written requesting the owner to extinguish the manorial incidents otherwise the lord "will give compulsory notice." Assuming that the tenure is copyhold or customary can there be any such compulsory notice, having regard to the L.P.A., 1922, s. 133, the effect of which seems to be to make the lord simply the owner of the reversion which he cannot compel the lessee to purchase ?

A. If there are customary manorial incidents imposed on the lessee (as is the case in some manors) they are within L.P.A., 1922, s. 138 (1), which applies to manorial incidents affecting enfranchised land saved by Pt. V of that Act, and also to "all manorial incidents of a like nature affecting any other land." "Land includes land of any tenure" (e.g., leaseholds) (L.P.A., 1922, s. 188 (1)). If, then, there are manorial incidents imposed upon the lessee (as seems to be the case) then the steward's notice appears to be in order.

Will—Construction—Income applicable for Maintenance—Destination of Surplus Income.

Q. 2673. A made his will and appointed his three children executors and trustees thereof. He died on the 16th May, 1932, and his will was proved on the 15th August, 1932. After giving certain legacies he gave the remainder of his estate to his trustees upon trust that they should sell and convert the same into money and apply the annual income of his estate for the maintenance of his wife during her life and from and after her death *as to the capital and income* thereof, to hold the same for his three children. The wife at the date of the will was and still is an inmate of a mental home. The income of the estate is more than sufficient to maintain the wife. Can the trustees who are three children of the testator divide the surplus income between them in the lifetime of the wife ? They may deposit the surplus income at a bank and it would appear that they could divide this income upon the wife's death, unless it could be said that it formed part of the wife's estate. She has separate estate.

A. This is a difficult point upon which we have not been able to trace any authority. While it would not be prudent to expend the entire income in the maintenance in any one year (with a view to possible emergencies or subsequent shortage of income) we are disposed to think that the trustees should increase the standard of maintenance so as to absorb substantially the annual income, seeing that their trust is to apply the income (and not the whole or a part thereof at their discretion) in the maintenance. They would certainly be ill-advised to distribute the surplus income during the life of the widow without the authority of the court, and it may be that there is an intestacy in respect of any surplus, the gift over of the capital and income only being applicable to such income as (on due apportionment) is attributable to the period after the death of the widow. We do not think that the surplus income would form any part of the widow's estate.

Gift of Shares subject to Reservation of a Life Interest for the Donor and after his Death for his Widow—Estate Duty—Parties accountable and incidence of on the Death of the Donor.

Q. 2674. AB within three years of his death gave to his nephew CD certain shares in a limited company, but subject to an agreement that AB should receive all dividends on such shares during his life, and that after his death his widow should receive the dividends during her life. As AB died within three years after the gift, estate duty has been payable on the capital value of such shares. Who is responsible for payment of the estate duty ? CD contends that as AB and his wife were to have the dividends during their lives the duty is payable by the estate of AB. On the other hand, the executors of AB contend that CD should pay the duty.

A. It is submitted that if this transaction is examined it will appear that CD was constituted a trustee for AB for life, with reversion to the widow of AB for life, with ultimate reversion to CD absolutely. On this basis, the shares would be deemed to pass on the death of AB (even if he had survived for three years after making the arrangement) (see Finance Act, 1894, s. 2 (1) (*c*), as read with s. 38 of the Customs and Inland Revenue Act, 1881, and s. 11 of the Customs and Inland Revenue Act, 1889). The personal representatives of AB are only accountable for, and his estate will only have to bear, the estate duty on such property as passes to them as such, and the shares would not be within this category. It follows, therefore, that the widow (to whom a beneficial interest passes) and CD (as trustee) are the accountable parties (Finance Act, 1894, s. 8 (4)), and the duty payable will be a first charge upon the shares, that is to say, they will have to bear the duty. Finance Act, 1894, s. 9 (1)). If there was no enforceable trust (whether in writing or not) and it was in fact within the discretion of CD whether he gave the dividends to AB during his life and to his widow after his death, then it would appear that the matter must be regarded as a simple gift to CD, and he will be accountable for and liable to pay the estate duty (Finance Act, 1894, s. 2 (1) (*c*), as read with s. 38 of the Customs and Inland Revenue Act, 1881, s. 11 of the Customs and Inland Revenue Act, 1889, and s. 59 of the Finance (1909-1910) Act of 1910).

Sewage Scheme for Rural District—Special Expenses.

Q. 2675. A rural district council, in whose area is situated a large institution, is proposing to lay down a sewerage scheme for dealing with the sewerage from the whole area, and wish to know whether that institution is willing to be connected up with the scheme or not. At the present moment the institution has an adequate system of its own for dealing with its own sewerage. As the institution is rated at a far greater amount than any other property in the area, it would have to pay a very large proportion of the special rate payable in respect of the proposed scheme. It would probably be considerably less expensive for the institution to have its own system put into a thoroughly up-to-date condition than to pay its proportion of the special rate which will be levied.

(1) Can the institution refuse to be connected up to the proposed scheme ?

(2) If it can, must it pay a proportion of the special rate ? or

(3) Having its own system already, can it refuse to pay anything towards the proposed scheme ?

(4) If it cannot be forced to be connected or to pay anything the authority for such right to refuse will be appreciated.

A. Is it quite clear that there will be a special rate, if the sewage scheme is to extend to the whole area of the council ?

(1) The institution can refuse to be connected up if it has a proper system of its own.

(2) and (3) The question of whether the institution has a separate system or not is immaterial to its liability to special rate. The rural district council can apportion as it sees fit between "contributory places" (L.G.A., 1929, s. 56, substituted for part of s. 229 of P.H.A., 1875, which latter defines contributory places). The only way in which the institution could escape would be by the rural district council, with the approval of the Ministry of Health, forming a part of the parish in which institution is, but exclusive of the institution, into a special drainage district under s. 277 of P.H.A.

(4) The powers of the council to compel connection to a sewer are limited by ss. 23 and 24 of P.H.A., 1875.

Obituary.

MR. E. H. BAILEY.

Mr. Edward Horsman Bailey, solicitor, of Kingham, Oxon, and senior partner for the past forty-five years in the firm of Messrs. Baileys, Shaw & Gillett, of Berners Street, W., died suddenly on Sunday, 19th February. Mr. Bailey, who was admitted a solicitor in 1871, was a member of the Mineral Owners Joint Committee, and was chairman of the Freeholders Society, with which he had been associated since its formation in 1890. He commanded the 2nd V.B. East Surrey Regiment from 1893 to 1906, and was awarded the V.D. and T.D.

MR. W. LAX.

Mr. William Lax, retired solicitor, of Ormskirk, died at his home on Thursday, 23rd February, at the age of seventy-eight. Mr. Lax, who was admitted a solicitor in 1878, practised in Ormskirk until his retirement a few years ago. He was senior trustee of the Ormskirk Savings Bank, and for many years was on the committee of the Ormskirk General Hospital.

MR. A. A. PADLEY.

Mr. Arthur Augustus Padley, solicitor, of Market Rasen, Lincs, died at his home on Saturday, the 18th February, at the age of eighty-two. Mr. Padley was admitted a solicitor in 1871, after serving his articles with Mr. H. K. Hebb, of Lincoln. He went to Market Rasen soon afterwards as managing clerk to a firm of solicitors, and had been in practice there ever since. He held many public appointments, having been clerk to the local justices and to the Urban District Council, clerk to the old Local Government Board and secretary of the Market Rasen Water Company.

MR. G. I. PETTITE.

Mr. George Ion Pettite, solicitor, of St. Mary Axe, E.C., and Guildford, died at his home at Onslow Village on Wednesday, 22nd February, at the age of fifty. Mr. Pettite, who was admitted a solicitor in 1926, served his articles with Messrs. Parker, Garrett & Co., of Cornhill, after previously being with the same firm as clerk. He started practising at St. Mary Axe four years ago as Messrs. Pettite & Kennedy.

MR. W. ROBERTS.

Mr. William Roberts, the oldest practising solicitor in Bristol, died recently at the age of eighty-seven. Admitted a solicitor in 1867, Mr. Roberts was senior partner in the firm of Messrs. Strickland, Roberts & Co., and was also an ex-president of the Bristol Law Society.

MR. R. H. SPENCER.

Mr. Richard Henry Spencer, solicitor, senior partner in the firm of Messrs. R. H. Spencer & Son, of Tredegar, died recently. Mr. Spencer was admitted a solicitor in 1884, and was the oldest solicitor practising in the Tredegar district.

Correspondence.

Novelists and the Law.

Sir,—I have read with much interest the note in your issue of 18th February, entitled "Novelists and the Law," and can fully endorse all you say as to the cleverness and originality of Miss Dorothy Sayers' novel "Unnatural Death." Unfortunately, although the authoress, as you point out, has made a careful study of the Administration of Estates Act, 1925, s. 46, she has, I am afraid, overlooked the first and third sub-sections of s. 47.

The murder was committed by a grand-niece who was the only near relative of a wealthy old lady—she was a granddaughter of a deceased sister. The girl was advised that unless her great-aunt died prior to 31st December, 1925, she, the grand-niece, would as a result of s. 46, be unable to "take" on the death, the Act simply making use of the word "issue." In the opinion of her solicitor (fortified by counsel) the word "issue" must be construed to mean children, with the effect that although a niece could take on intestacy a great-niece could not. It will, however, be readily recalled that by virtue of s. 47 (1) (i) and (iii), the issue of a dead brother or sister predeceasing the intestate, take *through all the degrees*, according to their stocks, in equal shares, if more than one the share which their parent would have taken if living at the death of the intestate. Under these circumstances it seems to me the murder committed was totally unnecessary—except that it provided Miss Sayers' readers with another of her brilliantly clever stories of which I, for one, can never have too many.

Northwich. J. K. BATTY.
21st February.

Sir,—In your issue of the 18th February you refer to Mr. John Galsworthy's caution in obtaining advice on legal matters although himself a barrister. Might I draw your attention to the Forsyte Saga, "To Let," Ch. 5, where Soames is considering settling his property on his daughter while reserving a life interest for himself? Gradman remarks "It'll take two years, sir, to be valid against death duties." This is a remark which appears to have been incorrect as to the law ever since the Finance Act, 1910, and I am surprised that Mr. Galsworthy should have invented a period of two years, as prior to that Act the period was one year. Further, Somerset House would claim succession duty in respect of the settled property in which Soames reserved a life interest, and this Gradman appears also to have overlooked.

Birmingham. L.A.S.
27th February.

Sir,—Having read the paragraph under the above heading in the "Current Topics" columns of THE SOLICITORS' JOURNAL at p. 107, I was naturally interested to find another legal problem worked out in the latest novel I have read, "The Motor Rally Mystery," which is this month's choice of the Crime Club panel. In this thrilling yarn, A, a wealthy man, enters for a thousand mile motor competition and has as passenger his second cousin and next of kin, B. Both are killed in a mysterious road smash, and as A had made no will the author makes of importance the problem whether B had died before A or after. The author has, however, overlooked s. 47 of the Administration of Estates Act, 1925, which provides that no more distant relative than a first cousin may inherit an intestate's estate. A's estate would, of course, have passed automatically to the Crown as *bona vacantia*.

Leicester. MARTIN WELLS.
28th February.

"Points in Practice": Five Shillings per cent. Conversion Commission.

Sir,—Referring to *Q.* 2660 on 18th February as to the right of the solicitor for trustees to retain the commission of 5s. per cent. in cases where the application form for conversion bore the stamp of the applicant's solicitor, it is clear that the commission can be retained by the solicitor unless he consents to pay it away or divide it with the tenant for life or the trustees' brokers or bankers. It has been admitted by the Inland Revenue authorities that a solicitor has only to pay income tax on so much as he receives and retains for his own use. (See Law Society's *Gazette* for February, p. 91.) Is it equally well known that the cards received from the Bank of England accompanying the cheques for commission have at the left-hand bottom corner certain letters, viz., SO, BA and BR, and that the cards sent to a solicitor show a small piece clipped out against the letters SO. No doubt the cards sent to the brokers and bankers have similar pieces clipped out against the other letters. This may indicate a record

at the Bank of England for the benefit of the Inland Revenue to check the inclusion of the commission in income tax returns, such commission amounting in some cases to several hundred pounds.

London, S.E. SUBSCRIBER.
23rd February.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

On the 7th March, 1808, Mr. Justice Rooke died suddenly after fifteen years' judicial service in the King's Bench. During that time he had shown himself less profound as a lawyer than mild, merciful and amiable as a judge. Specimens of his style both at the Bar and on the Bench may be found in the State Trials—the case of William Winterbotham, a dissenting preacher, whom he prosecuted at Exeter for seditious sermons; and that of Henry Redhead Yorke, at whose trial for conspiracy against the Government he presided in 1795. He maintained a lifelong piety which took firm root while he was at the University. Experiencing during his residence at Oxford a tendency to the fashionable scepticism of the eighteenth century, he plunged into the study of theology and did not rest until he had convinced himself on a rational basis of the doctrines of Christianity.

THE FIRST BOW.

With proper ceremony the new silks (His Majesty having been pleased to appoint them His Counsel learned in the law) have for the first time trodden the red carpet of the front row. Though the ritual of obeisances is less intricate than the old calls of the serjeants, which entailed (*inter alia*) "reading a count" by way of probation, many of the newly honoured must, after the fatiguing tour of the courts, echo Frank Lockwood's ejaculation after his last bow: "You don't catch me doing this again." Not many, happily, suffer as did that corpulent leader who, having squeezed his bulk with great difficulty into the front row, muttered in response to the judge's: "Mr. —— do you move?" "Not without difficulty, my Lord."

POISONED CHOCOLATE.

For sending a gift of poisoned chocolate through the post, a prisoner got off with fifteen months' imprisonment at the last Glamorgan Assizes. He should be thankful that he did not make criminal history, paralleling the great case of Christina Edmunds and the poisoned chocolates which Brighton has not forgotten even after sixty years. This lady, having conceived a passion for her doctor, made a rather clumsy attempt to administer poisoned sweets to the wife of her "*Caro Mio*," as she called him. In the result, she was not unnaturally forbidden his house. From her mortification emerged all the latent madness in blood tainted with insanity, as appeared at her trial, to two generations. With malicious cunning, she sent little children to buy her chocolates which she took home, treated with strychnine, and, on pretext of exchange, had returned to the shop. They were naturally resold and a little boy died poisoned. At the inquest, she won applause by giving evidence complaining of the effect of goods she had bought at the shop and denouncing the stupidity of the police. After this, Brighton residents began to receive through the post anonymous parcels of delicacies, all of which proved to be poisoned. The public-spirited Miss Edmunds, of course, received one, and again had an opportunity to denounce the police. When, at last, she was tracked down and stood in the dock at the Old Bailey the general fury and prejudice of the jury ignored the most positive evidence of insanity and brought in the verdict of guilty to the open jubilation of a section of the press. She was, of course, reprieved and survived to pass her seventy-ninth birthday in Broadmoor.

Notes of Cases.

House of Lords.

Wiggins (Inspector of Taxes) *v.* Watson's Trustees.

21st February.

INCOME TAX—SETTLEMENT—COVENANT TO PAY ANNUITY SETTLED ON TRUST FOR INFANT—POWER OF REVOCATION—WHETHER INFANTS' INCOME—FINANCE ACT, 1922, s. 20 (1).

The question raised on this appeal was whether an annuity of £350 payable under a settlement to trustees for the benefit of the settlor subject to the provision that the settlor might at any time with the consent of any one of five named persons revoke or alter the provisions of the settlement ought, in pursuance of s. 20 of the Finance Act, 1922, to be treated as income of the settlor for income tax purposes as being by reason of the power of revocation income payable to or applicable for the benefit of the child of the settlor for some period less than the life of the child within the meaning of the Act. The settlor had not exercised the power of revocation either wholly or in part at the date of the appeal.

ROWLATT, J., reversing the decision of the Commissioners, held that as there had been no revocation the annuity was the income of the minor for the purpose of the tax, and was payable to the child for his whole life within the meaning of the Act. On appeal by the Crown the Court of Appeal dismissed the appeal, and the Crown now appealed to the House.

Lord BUCKMASTER, in giving judgment, said the point and the only point that had hitherto been argued and on which the opinion of the House had been invited was whether or not by the mere fact that there was a power of revocation contained in the deed ensured that the limitations of the interest were for a less period than the life of the child. He was unable to follow that argument any more than the other judges before whom it had been advanced. The limitation was for the life of the child subject to a power which enabled the limitation itself to be set aside, but that did not prevent the limitation while it lasted from being for the life of the child. He was strongly confirmed in that view by the fact that the contrast between sub-s. (*c*) and sub-s. (*a*) was so marked. The power of revocation in sub-s. (*a*) was one which must be exercised without the consent of any other person, and in the present case it could only be exercised with the consent of one of five named persons. Those reasons satisfied him that in sub-s. (*c*) it was never intended that the limitation for the life of the child should be regarded as a limitation for less than that period by reason of the power of revocation, and that was the view of the Court of Appeal. The appeal should be dismissed with costs.

Lords WARRINGTON, RUSSELL, TOMLIN and WRIGHT concurred.

COUNSEL: *The Attorney-General* (Sir T. Inskip, K.C.), *J. H. Stamp* and *R. Hills*; *A. M. Latter*, K.C., *Gavin Simonds*, K.C., and *Cyril King*.

SOLICITORS: *Solicitor of Inland Revenue*; *Shirley Woolmer and Co.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Keane and Others *v.* Mount Vernon Colliery Company.

27th February.

WORKMEN'S COMPENSATION—PARTIAL DEPENDANTS—MEMBERS OF FAMILY LIVING TOGETHER—STANDARD OF FAMILY LIFE—IMPOVERISHMENT OF FAMILY.

This was an appeal by Thomas Keane, Mrs. Annie Keane, Miss Catherine Keane and Miss Hannah Keane from a judgment of the Second Division of the Court of Session, Lord Morison dissenting, affirming the decision of the arbitrator who found that the appellants, other than Mrs. Keane, were not entitled to compensation in respect of the death of Michael

Keane, who was fatally injured as the result of an accident in the course of his employment. The deceased, who was the son of the first two appellants and brother of the other two, was a machine man earning £3 2s. 4d. a week, and claims for compensation in respect of dependency were made by the four members of the family. Since the death the income of the household had been reduced by the amount of the wage and the result was, as the arbitrator found, that Mrs. Keane was no longer able to buy the same amount of food and the daughters were no longer able to buy the same amount of clothes as formerly. The decision of the arbitrator having been upheld by the Second Division, the appellants now appealed on the question whether the appellants other than Mrs. Keane were not in the statutory sense dependent on the earnings of the deceased.

Lord BUCKMASTER, in giving judgment, said no one could doubt that family life had been impoverished by the death of the wage-earner, but that was not the test which the Act had established. The standard was that the impoverishment must be such that the dependants had been deprived of the ordinary necessaries of life; and although the arbitrator had reduced the matter to an allocated sum per head, yet he showed that he had taken the total sum provided and measured the necessaries of a family in that position. The arbitrator's finding that the daughters were not able to go to so many picture houses as formerly did not involve the conclusion that reasonable amusement and good clothing were not necessaries for that position of life. He (his lordship) could not say that the arbitrator's conclusion of fact was one which there was no evidence to support or one which was reached by considerations not permitted by the law.

Lords WARRINGTON, RUSSELL and MACMILLAN also gave judgments dismissing the appeal, and Lord BLANESBURGH dissented.

COUNSEL: *James Walker* and *J. G. Leechman*; *Thomas A. Gentles*, K.C., and *James R. Marshall*.

SOLICITORS: *Findlay, McClure & Co.*, for *Allan M'Dougall and Co.*, S.S.C., Edinburgh, and *R. Maguire, Cook & Co.*, Glasgow; *Beveridge & Co.*, for *W. & J. Burness*, W.S., Edinburgh, and *W. T. Craig*, Glasgow.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Horniman *v.* Horniman.

Lord Merrivale, P. 14th February.

DIVORCE—PERMANENT MAINTENANCE—BASIS OF ASSESSMENT—"ONE-THIRD RULE" INAPPLICABLE—DISCRETION AS OPPOSED TO ARITHMETICAL CALCULATION—JUDICATURE (CONSOLIDATION) ACT, 1925 (15 & 16 Geo. 5, c. 49), s. 190.

These were cross-motions in respect of a registrar's report on permanent maintenance.

The registrar assessed the net income of the respondent, subject to tax, at £5,385, and estimated a third of the joint incomes, less the petitioner's own income, at £1,090. He submitted that the petitioner having re-married should not suffer any diminution on that score, and having regard to all the circumstances, including the conduct of the parties, he reported that the respondent should pay £750 per annum. less tax, for joint lives, but no sum should be secured, Pending proceedings the respondent's father died and the registrar was asked to reconsider his report by reason of benefits accruing to the respondent under his father's will. The registrar found a net increase of £597 per annum, but submitted that his previous report should stand. For the petitioner it was submitted that in view of the actual income of the respondent he should pay £1,289 by way of maintenance instead of £750. The respondent also asked for variation.

Lord MERRIVALE, P., in the course of giving judgment, said that he must emphasise certain considerations with regard to the jurisdiction which was involved. It was not a case of judicial separation with a decree which, under the statute, was to have "the same force and effect as a decree of divorce *a mensa et thoro* had immediately before the commencement" of the Matrimonial Causes Act, 1857. Such a decree, no doubt, carried with it a *prima facie* claim for alimony on the footing on which alimony was fixed in the Ecclesiastical Courts, though, as was explained in *Dean* v. *Dean* [1923] P. 172, there was judicial control on proper grounds even in such cases. But the power invoked in the present case was statutory under s. 190 of the Judicature (Consolidation) Act, 1925. [His lordship here reviewed the development of the law and practice referring, *inter alia*, to *Fisher* v. *Fisher* (1861), 2 Sw. & Tr. 410; *Sidney* v. *Sidney* (1865), 4 Sw. & Tr. 178, and *Wood* v. *Wood* [1891] P. 292.] In *Restall* v. *Restall* [1930] P. 189, the Court of Appeal insisted on the necessity of giving attention to all the considerations prescribed by the statute, and a year later in *Stibbe* v. *Stibbe* [1931] P. 105, 110, the Court of Appeal placed the supposed arithmetical rule in its proper place, the Master of the Rolls saying: "The assumption of a fixed arithmetical rule and an indispensable process of applying that rule is erroneous and disregards the duty imposed by the section under which the ability of the husband and the conduct of the parties are to be considered to find out what is the reasonable amount." Having regard to the state of the authorities, he (his lordship) was perplexed at the assumption still confidently made in cases like the present that irrespective of the facts there was a *prima facie* rule that a divorced husband should share his fortune with his former wife on the footing of the permanent alimony which would be secured to a wife who had become judicially separated—the assumption, in short, that the case was not one of discretion but arithmetic. In the result his lordship confirmed the submission contained in the registrar's report, the petitioner being allowed her costs.

COUNSEL: *T. J. O'Connor*, K.C., and *Hon. Victor Russell*, for the petitioner; *Willis*, K.C., and *H. W. Barnard*, for the respondent.

SOLICITORS: *Withers & Co.*; *Halsey, Lightly & Hemsley.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

Rex *v.* Beadell.

Lord Hewart, C.J., Avory and Hawke, JJ. 23rd January.

CRIMINAL LAW—CHARGE OF BEING AN HABITUAL CRIMINAL—STATUTORY NOTICE—INCLUSION OF ALLEGED CRIME NOT PROVED OR ADMITTED—PREVENTION OF CRIME ACT, 1908 (8 Edw. 7, c. 59), s. 10, sub-s. 4.

This was the appeal of Bertram Beadell against conviction as an habitual criminal.

On the 26th October, 1932, he was charged at the London Sessions on an indictment containing four counts charging him with obtaining money by false pretences, and a count charging him with being an habitual criminal. He pleaded guilty to the charges in the first four counts, but not guilty to that of being an habitual criminal. In the statutory notice served on the appellant by the Director of Public Prosecutions was the following: "(2) . . . (*d*) That shortly after your last release from prison you obtained some honest employment at Clapham and purported between May and August, 1932, to make efforts to obtain other work, but you did so as a cloak to further acts of dishonesty, in that in June, 1932, you commenced at your home address a fraudulent business under the name of 'The True Times Services Direct Road Supply' and obtained by false pretences a deposit of £30 from one Rawlings, and you subsequently carried on this fraudulent business at 19, Harp-lane, Eastcheap, and there obtained by false pretences a deposit of £20 from one C. H. Brown. These frauds were similar in character

to those involved in the charges in respect of which you are now awaiting your trial." After the accused had been given into the charge of the jury an objection to the above particulars was taken on his behalf on the ground that the Crown had included in them allegations of crimes of which the appellant had not been convicted, and which he had not admitted. The Deputy-chairman upheld the objection and discharged the jury from giving a verdict. The appellant, on the 3rd November, 1932, was then charged at the police court with having obtained sums of money by false pretences from persons named Rawlings, Brown and Ladd, and he was committed for trial. On the 22nd November he was charged at the London Sessions with having obtained the sums of money from the above-named persons by false pretences, and also with being an habitual criminal. He pleaded guilty to the false pretences charges, but not guilty to the charge of being an habitual criminal. The jury found him guilty of being an habitual criminal and he was sentenced to three years' penal servitude and five years' preventive detention.

Lord HEWART, C.J., giving the judgment of the court, said that the main ground of the appeal was that the trial was postponed and the first jury discharged in the circumstances referred to (above). For the appellant reliance was placed on *H. Jones* [1922] 16 Cr. App. R. 124, but, as had been pointed out, the headnote in that case was inaccurate. The court was induced by argument based on the misconception of the case of *H. Jones*, *supra*, to act as it did in discharging the jury without giving a verdict. The contention for the appellant was that the first jury ought not to have been discharged, but the judge in doing so exercised his discretion and they (their lordships) had no power to interfere with the exercise of that discretion, which was exercised entirely in the interests of the accused. In their view, the Deputy-chairman ought to have proceeded with the first trial upon the particulars as they stood, the particulars not being open to the objection which was alleged. The appeal would be dismissed.

COUNSEL: *P. R. Hollins*, for the appellant; *J. F. Eastwood*, for the Crown.

SOLICITORS: *The Registrar of the Court of Criminal Appeal; Wontner & Sons.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

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Parliamentary News.

Progress of Bills.

House of Lords.

Assurance Companies (Winding Up) Bill.
Read Third Time. [28th February.
Austrian Loan Guarantee Bill.
Read Second Time. [28th February.
Canterbury Extension Bill.
Read Third Time. [23rd February.
Lyme Regis District Water Bill.
Read Second Time. [1st March.
Ministry of Health Provisional Order (Buckingham and Oxford) Bill.
Read Second Time. [1st March.
Ministry of Health Provisional Order (Leek) Bill.
Read Second Time. [1st March.
Ministry of Health Provisional Order (Rugby Joint Hospital District) Bill.
Read Second Time. [1st March.
Ministry of Health Provisional Order (Taunton and District Joint Hospital District) Bill.
Read Second Time. [1st March.
Pharmacy and Poisons Bill.
Read First Time. [28th February.
Public Works Facilities Scheme (Torquay Corporation) Confirmation Bill.
Read Third Time. [1st March.
Rhondda Passenger Transport Bill.
Read Second Time. [23rd February.
Road Traffic (Speedometer) Bill.
Read Third Time. [28th February.
Torquay and Paignton Traction Bill.
Read Second Time. [23rd February.

House of Commons.

Assurance Companies (Winding Up) Bill.
Read First Time. [28th February.
Blind Voters Bill.
Read First Time. [23rd February.
Doncaster Area Drainage Bill.
Reported, with Amendments. [27th February.
Durham Corporation Bill.
Read Second Time. [28th February.
Evidence (Foreign, Dominion and Colonial Documents) Bill.
Reported, without Amendment. [23rd February.
Home and Empire Settlement Bill.
Read Second Time. [24th February.
Housing (Financial Provisions) Bill.
Reported, with Amendments. [28th February.
Indian Pay (Temporary Abatements) Bill.
Read Second Time. [23rd February.
Local Government (General Exchequer Contributions) Bill.
Read First Time. [23rd February.
Ministry of Health Provisional Order (Chester and Lancaster) Bill.
Reported, with Amendments. [1st March.
Ministry of Health Provisional Order (Eton Joint Hospital District) Bill.
Reported, with Amendments. [1st March.
Ministry of Health Provisional Order (Torquay) Bill.
Read First Time. [1st March.
Preston Corporation Bill.
Reported, with Amendments. [1st March.
Visiting Forces (British Commonwealth) Bill.
Reported, with Amendments. [28th February.

Questions to Ministers.

KING'S PROCTOR.

Mr. MCKEAG asked the Attorney-General whether and, if so, when he proposes to take steps to abolish the office of King's Proctor?

The ATTORNEY-GENERAL: I am satisfied it would not be in the public interest that the office of the King's Proctor should be abolished. [23rd February.

LAW CASES (APPEALS).

Mr. TURTON asked the Attorney-General how many persons appealed by way of a case stated from courts of summary jurisdiction to the High Court of Justice during the year 1932; in how many cases was the appeal allowed; in how many dismissed; and in how many was the case remitted to the court of summary jurisdiction.

The ATTORNEY-GENERAL (Sir Thomas Inskip): During the period mentioned there were 62 appeals; 26 were allowed: 23 were dismissed and five cases were remitted to courts of summary jurisdiction. [1st March.

Societies.

City of London Solicitors' Company.

ANNUAL DINNER.

This Company held its annual dinner at the Mansion House on Wednesday, 22nd February, with the Master, Mr. R. S. FRASER, in the chair. Among those present were The Master of the Rolls, The Right Hon. Lord Atkin, P.C., The Right Hon. Lord Essendon, The Right Hon. Lord Macmillan, P.C., The Right Hon. Lord Wright, The Right Hon. The Earl of Lucan, K.B.E., Alderman Sir William Phené Neal, Bt., Alderman Sir George Truscott, Bt., Alderman Sir George Collins, Mr. Justice du Parcq, Sir Herbert Cunliffe, K.C., the Chairman of the Bar Council, Sir Albion Richardson, C.B.E., K.C., Sir Alexander Lawrence, Bt., Sir William Barber, Sir Geoffrey Clarke, C.S.I., O.B.E. (Chairman of The London Chamber of Commerce), Sir James Martin, M.B.E., Sir John Pakeman, C.B.E., C.C., Sir John Stavridi, Sir John Stewart-Wallace, C.B. (Chief Land Registrar), Lt.-Col. Sir Hugh Turnbull, K.B.E. (Commissioner of City Police), Sir William Willcox, K.C.I.E., C.B., C.M.G., M.D., Mr. Clement Davies, K.C., M.P., The Hon. S. O. Henn Collins, K.C., Mr. W. T. Monckton, M.C., K.C., Mr. D. M. Pritt, K.C., Mr. Rowland Thomas, K.C., Mr. G. Russell Vick (Recorder of Halifax). The Hon. E. G. Eliot (Junior Warden), The Hon. Ewen Montague, The Hon. John Mulholland, M.C., Dr. C. E. Barry (President of The Law Society), His Honour Judge Shewell Cooper, Air Commodore C. L. Courtney, C.B., C.B.E., D.S.O., Mr. Deputy King Farlow, C.C., Dr. Cecil Wall, Mr. J. H. N. Armstrong, O.B.E. (Immediate Past Master), Mr. Gordon Alchin, Mr. E. Burrell Baggallay (Past Master), Mr. R. P. Baker, Mr. Norman L. Ball (President of the Incorporated Society of Auctioneers and Landed Property Agents), Mr. H. Roper Barrett, C.C., Mr. Wyndham A. Bewes (Hon. Secretary to the International Law Association), Mr. E. E. Bird, Mr. P. D. Botterell, C.B.E. (Past Master), Mr. C. E. C. Browne (Hon. Parliamentary Agent), Mr. L. C. Bullock (Member of Court), Mr. E. R. Cook, C.B.E. (Secretary of The Law Society), Mr. C. R. V. Coutts (Chairman of the Life Offices' Association), Mr. A. T. Cummings (Member of Court), Mr. H. A. Easton, C.C., Mr. Hugh D. P. Francis, M.C., T.D. (Past Master), Mr. P. C. Francis (Past Warden), Mr. C. S. Golding (Member of Court), Mr. F. M. Guedalla (Past Master), Mr. A. Hair (Member of Court), Mr. P. Harford, Mr. J. M. Haslip (Past Master), Mr. R. Q. Henriques, Mr. A. S. Hicks, Mr. R. F. W. Holme, Mr. A. C. Knight, J.P., C.C., Mr. Harry Knox (Past Master), Mr. R. W. Ledger (Master of the Salters' Company), Mr. G. L. F. McNair (Past Master and Hon. Treasurer), Lt.-Col. Stuart S. Mallinson, D.S.O., M.C., Mr. C. Matthews, V.D. (Senior Warden), Mr. C. B. Matthews (Clerk), Mr. T. D. Metcalfe, C.C., Mr. G. Everard Nichols (Clerk to the Salters' Company), Mr. E. M. de Paula, Mr. J. W. Beaumont Pease (Chairman of Lloyds Bank, Ltd.), Mr. Anthony Pickford (City Solicitor, Member of Court, Junior Dinner Steward), Mr. G. Stanley Pott (Past Master), Mr. P. H. Price, O.B.E. (Secretary of the Railway Clearing House), Mr. E. A. Rehder (Member of Court), Mr. E. G. Roscoe (Member of Court, Senior Dinner Steward), Mr. S. G. Scott (Past Master), Mr. W. Crichton Slagg, Mr. R. T. Stoneham, Mr. H. S. Syrett, C.B.E., C.C., Mr. F. Taylor (President of the Solicitors' Managing Clerks' Association), Mr. J. H. Todd (Master of the Vintners' Company), Mr. A. Andrews Uthwatt, Mr. J. D. Watts (Master of the Scriveners' Company), Mr. L. S. M. Wells, C.C., Mr. H. C. Wild, and Mr. T. H. Wrensted (Past Master).

After the loyal toasts had been honoured, Mr. M. C. MATTHEWS, Senior Warden, proposed "The Commerce of the City." The City of London (he said) had been known as a trading community, particularly with countries overseas, from the days of dim antiquity. Successful commerce necessitated combined action, and in mediæval days the guilds had been formed. Some of these had developed into the present city Companies and others into Chambers of Commerce. London had had long experience of the vicissitudes of prosperity. It had often seen the stream of commerce flowing strongly, and just as often had seen the stream flowing sluggishly. The present flow was sluggish, but the City could look forward with confidence to a more rapid flow in the near future. He combined with his toast a hope that London, Great Britain, and the whole world would soon enjoy again that prosperity to which its citizens looked forward.

Sir GEOFFREY CLARKE said that the business of the City of London was so far spread throughout the world that the London Chamber of Commerce found it difficult to confine its activities to the City. Nearly every part of the world in which trade was carried on had its representative in London. The average proportion of imports to exports in London was about five to one, and she was still the greatest distributing centre of the world. Her wealth and greatness had been built up by her merchants, bankers and financial houses. London merchants were therefore strong for free trade; they had lived on buying in the cheapest and selling in the most favourable markets, and their prosperity had been built up on that freedom. They had, nevertheless, against their own interests, voted for protective tariffs in 1931, hoping that those tariffs would be used for bargaining purposes to reduce other tariffs throughout the world and promote freer and fairer commerce. The World Economic Conference was to take place soon, but the speaker's experience of a meeting of only twelve distinguished experts had been that no two had agreed on any one subject. He doubted whether any greater unanimity would be found in a meeting of 800 people of different nationalities! Tariffs, however, constituted the greatest obstacle to international trade and their pernicious influence was especially felt in the City of London. Other serious burdens upon international trade were international debts, trade restrictions and the prevalence of very low prices. Some authorities blamed the gold standard; most would admit that that standard had definitely been a failure and hope that a return would never be made to it. The London Chamber of Commerce had set up in its place a practicable monetary scheme which had met much criticism but had also received a certain meed of praise in many important centres. London as a manufacturing city was rapidly increasing in importance, with the result that the City was becoming increasingly congested. The speaker hoped that the new London Passenger Transport Bill would help to relieve this congestion.

After a spirited defence of the middle-man, Sir Geoffrey praised the lawyers of London. Lawyers were often described, he said, as an expensive nuisance, but laymen could not possibly do without them. They were in fact very necessary and convenient creatures, and without their aid it would be impossible to draw up agreements which would be sufficiently complicated and unintelligible. Solicitors were a source of anecdote second only in quality to the Stock Exchange, and (according to W. S. Gilbert) of elderly wives for impecunious barristers. They had been the invaluable allies of commercial men in building up the greatness of London's trade.

The Hon. E. G. ELIOT, Junior Warden, then proposed the toast of "The Law and Lawyers."

He said: "I have a mandatory injunction to set down for hearing the toast of two undivided moieties, the Law and the Lawyers, and I must therefore trespass upon your Acts and Deeds and sue for your beneficial interest and valuable consideration, be the same a little more or less. We may assume, I think, that the expression 'The Law and the Lawyers' includes, where the context so requires and admits, 'the Law and the Prophets,' exclusive, of course, of disbursements. Owing to a recent order, however, it appears that the profits have become the *minimis* about which the *lex non curat*.

"Most of us who have been summoned to enter an appearance to-night work either in the Wards in the City or for Wards in Chancery and have a life interest in the law. It is essential, then, that part of our habendum should be the retainer in perpetuity of our health, for upon the remainder of our health is our interest contingent. I trust that our lay guests will not consider that as lawyers we are derogating from the grant of our hospitality if we drink our own health. I can covenant with them that we do so without prejudice to our right at a later stage in these proceedings to drink the health of our guests, *mutatis mutandis*. The maxim '*Sic utere tuo ut alienum not lædas*' may thus be cited as the underlying principle governing this case.

"The Law is our Legacy from our predecessors in title, but it is certainly not a legacy free of all duty. For the pursuit of the Law entails that we should become engrossed in the objects of the articles of our association, and our liability in that respect is certainly unlimited. But the workmen have compensation for their service both within and without the jurisdiction. It is, indeed, in evidence, and I have every further assurance, that we endeavour in the specific performance of our dominant servitude to answer all its requisitions and to comply without exception, restriction or reservation with our declaration of trust.

"Gentlemen, time, which is of the essence, is running against me, and I have been refused an extension. I am, therefore, estopped from the further prosecution of this appeal. The Master has irrevocably appointed that the

respondent to these interlocutory proceedings should be a guest whom I hope I may call not only an *amicus curiæ* but a friend of the Master, Wardens and members of our Company as well. I refer to Lord Macmillan. We have an after-acquired property in the further and better particulars of Lord Macmillan's reply to this motion, and in order that I may put no further restraint upon your anticipation, I submit my statement of claim to be allowed to propose the following resolution, *videlicet*: 'That this special general meeting, having charged its glasses with liquid assets, do honour, by at least a three-quarter majority, the toast hereinbefore mentioned: "The Law and the Lawyers."' That resolution, gentlemen, I will ask the Master to be so good as to second, if your Lordship pleases."

Before the reply the Master delivered a short speech in praise of the study of international law and urged members of the gathering to join the International Law Association.

The Rt. Hon. Lord MACMILLAN, in response to the toast, said that after a considerable study of the best models of judicial post-prandial oratory he had come to the conclusion that the correct tone was one of decorous levity. He had, however, found his style somewhat cramped on consulting Lord Dun's "Friendly and Familiar Advices," an ancient Scottish volume on conduct befitting a judge. In 1754 Lord Dun had admonished his successors in these words :—

> "In reference to himself, the judge in his eating and drinking ought to be sober and temperate ; in his recreations moderate, making a right choice of them ; not to be addicted to gaming with cards or dice ; such unlawful recreations are by the judge to be discouraged, as the occasions of much wickedness . . . In his habit the judge ought to be grave and decent ; in the whole of his deportment humble, courteous, affable and meek : the whole of his conversation ought to be savoury, wise and edifying."

After the hospitality of the evening it was difficult to be wise and edifying, however savoury the speaker might be!

He could not, he continued, complain that the range of the toast was limited. So far as he had been able to construe the speech in which the toast had been proposed, he gathered that the proposer had quite a good opinion of the law and lawyers. After quoting the witty remarks of Lord Sands on the infallibility of the House of Lords (*Assessor for Aberdeen* v. *Collie* [1932] S.C. 304), Lord Macmillan remarked on the almost unconscious change that was coming over the whole nature of legal work. He asked his hearers to imagine what Blackstone would have made of the current volume of the law reports. The whole centre of gravity of legal practice and the whole tenour of legislation were changing. Whereas the legislature had formerly restricted itself to statutes dealing with well-defined principles of law, in these days it was using the statute-book for an entirely different purpose. Legislation was not now concerned nearly so much with the reform of legal principles and the codification of the law as it was with social and economic reforms. Whether lawyers liked this state of affairs or not, they had to accommodate themselves to an entirely new outlook on legislation. Nevertheless, the speaker expressed the strong opinion that the statute-book was an excessively bad vehicle for this kind of reform. (Applause.) A vast volume of legislation was being poured out which was not really suited to cope with the kind of problems which it was endeavouring to solve—problems which could only be solved administratively and not by an implement of precision like a statute. The business of the lawyer was consequently becoming more and more that of interpreting and endeavouring to pull into some semblance of order and intelligibility those great masses of legislation. In the twelve years between 1919 and 1930 no less than 732 Acts of Parliament had been passed, occupying 8,405 pages of the Law Reports editions. He trusted that the City of London Solicitors' Company was thoroughly familiar with every one of those statutes. Every citizen was bound to know the law—except the judges, who had to be told it by counsel!

This vast output of statutory law was in one sense a real menace. On a recent visit to America, said Lord Macmillan, he had been much struck by a curious note that he had observed in references to the law by his American brethren. They had referred to Acts as "only statute law." Their respect for the common law had been unmeasured—greater, perhaps, than that of an English lawyer—but for statutes they had something like contempt, as though these represented some inferior form of legal sanction. This was the inevitable consequence of the pouring out of legislation in this vast quantity, dealing with all kinds of topics, suitable and unsuitable. The speaker had gathered that vast numbers of the 60,000 statutes which had been passed in America in five years had become complete dead letters and that nobody took any notice of them. When a country disregarded its laws, treated them with disrespect and sought to evade them, and when citizens applauded their successful evasion, morality was very seriously threatened. It was notorious that one of the most important causes which had brought law into disrespect on the other side of the Atlantic had been the passing of a statute which had not commended itself to the conscience of the people. It did not befit the people of Britain to be pharisaical. This country had plenty of Acts of its own on the statute book which laymen—he would say nothing about lawyers—were quite prepared to evade. As long as legislation existed which the country was pretending to enforce and did not enforce, a great injury was being done to the body politic. The laws of this country ought to be respected because they commended themselves to the conscience of the people. Measures intended only to conciliate particular interests or to obtain the vote of particular sections of the community ought never to find their way on to the statute book.

Lord Macmillan recalled his early days as an articled clerk, and remarked that he was at present trying to reduce to order the law of income tax, a task for which his position as chairman in lunacy particularly fitted him. (Applause.) The profession of the law was, he said, the most delightful one in existence. The law was a growing and a living thing, and lawyers were responsible for its growth. Their practice brought them into contact with every form of human life and with every form of romance, and kept them alive and interested all their days.

Mr. P. D. BOTTERELL, Past Master, in proposing the health of "The Guests," said that real friendship in the highest degree existed between the Company and its guests. Dr. Barry, by his presence in his official capacity, carried one year further the Company's custom of inviting the President of The Law Society to be a guest at its annual dinner. In common with the whole body of solicitors, the Company looked to the Society for guidance in many matters affecting the profession. It would find in Dr. Barry no mean mentor and champion, for, in addition to many personal qualifications, he brought fifty years' experience of the profession in a very large provincial practice. He was thus fully equipped to extract the thorns from the roses which surrounded the path of the President of The Law Society.

Dr. C. E. BARRY, in reply, said that as a provincial solicitor of over fifty years' standing, he felt rather a stranger in a foreign land. If he were to tell the Company the opinion which the provincial solicitor held of the London solicitor, it might not be as pleased as it might otherwise be. Provincial solicitors considered that the London solicitor, in his own estimation, monopolised all knowledge and all virtue. On the other hand, the provincial man had an equally high view of his own importance and knowledge. The speaker could, however, claim to know both sides, for he had been an articled clerk in an office in Old Jewry, to a principal whose successor was present that evening. He gave some amusing reminiscences of Huddlestone, C.B., and of the life of a clerk in those days, and described the work which The Law Society was doing in furthering the passage of the Solicitors' Bill. He said that the draft rules which the Council were to make under the Bill would, in due course, be shown to all members of the profession for criticism.

Lord HANWORTH, Master of the Rolls, proposed the health of "The Company, Master and Wardens," and the Master briefly replied.

The Birmingham Law Society.

The Annual General Meeting of the Society was held at the Library, on Wednesday, 22nd February, when the annual report of the proceedings was presented.

The report, which dealt with the year ending 31st December, 1932, may be summarised as follows :—

The membership of the Society shows a decrease of two as compared with last year, the number on the register on the 31st December, 1932, being 425.

The following members have died during the year : Messrs. J. H. Dewes, T. N. Fisher, T. E. Forsyth, J. W. Hallam, J. H. Kitchen, W. H. Malins, E. I. Miller, A. Round and R. Williams.

Mr. A. H. Coley and Mr. R. A. Pinsent have continued to represent the Society on the Council of The Law Society.

The income and expenditure account shows a credit balance of £670 1s. 11d., as against £582 0s. 9d. last year.

In May last, the Committee decided to realise the Society's investments in anticipation of the payment of the purchase price for the new Law Library. The total amount received was £9,428 14s. 4d.

In view of the impending removal of the Society to the new premises, the Committee decided to dispose of the lecture room, so that it would not be on the Society's hands in 1937, when the lease could be determined.

They were approached by the Birmingham Incorporated Building Society with a view to their purchasing the property,

and the price of £750 was agreed upon. The assignment was completed on the 7th October, and the necessary work in the library has been completed.

Eleven thousand eight hundred and twenty-six books have been issued during the year, as compared with 11,468 in 1931, 10,495 in 1930, and 8,262 in 1929.

MEDALS AND PRIZES.

No candidate qualified to receive the Gold Medal, and consequently the Horton Prize was not awarded.

Mr. L. C. Tilley (articled to Mr. A. E. Thomas, of Dudley) obtained Second Class Honours, and was awarded the Bronze Medal.

Mr. H. Clayton (articled to Mr. T. W. Pickup, of Birmingham) also obtained Second Class Honours.

Mr. A. R. Herbert (articled to Mr. A. G. Rudge, of Brierley Hill) and Mr. W. H. Smith (articled to Mr. J. T. Higgs, of Brierley Hill) obtained Third Class Honours.

Prizes of books were also awarded to all the above candidates by the committee.

SOLICITORS' CLERKS' PENSION SCHEME.

The Solicitors' Clerks' Pension Scheme was inaugurated in 1930 and copies of the Memorandum circulated to all Solicitors.

It is hoped that members will not only inform their clerks of its existence, but encourage and assist them to join it.

SOLICITORS' BILLS.

No progress was made with the Solicitors Bill mentioned in the last annual report. The Law Society are now submitting to Parliament a new Bill which has been approved by Sir John Withers.

The main provisions of the Bill is to give The Law Society power to make rules for the professional practice, conduct, and discipline of solicitors, including rules as to the keeping of solicitors' accounts.

NEW LIBRARY PREMISES.

The purchase from the Birmingham Temperance Society of their lease was completed on the 30th September, 1932, and thereupon that lease was surrendered to the ground landlord with a view to the granting of a new lease for ninety-nine years at a ground rent of £300 per annum and subject to an outlay of £10,000. This new lease will be granted when the reconstruction of the building is complete.

During the year, the committee, with the assistance of the building sub-committee, considered the architects' plans in detail and finally agreed them.

Bills of quantities were prepared on the basis of these plan and several prominent builders, both in and out of Birmingham were invited to tender. The lowest tender was accepted b the committee.

The terms of a sub-letting of a portion of the premises t the Birmingham Temperance Society have been settled.

The committee have found that in order to carry througl the scheme for the building of the new library, it is necessary to alter the memorandum and articles of association, and accordingly, the memorandum has been revised and a new set of articles prepared for submission to the members.

AUCTIONEERS' CONTRACTS.

The committee complained to The Law Society of the practice of certain auctioneers themselves drawing up "open" contracts for sale of land, and The Law Society communicated with the Auctioneers and Estate Agents Institute on the point. The Institute expressed their sympathy with The Law Society's point of view, but regretted that in the particular case mentioned to them they had no jurisdiction over the auctioneers, who were not members of that body. The Institute were anxious not to encroach upon the work of the legal profession and had circularised its members with a form of conditional agreement which was quite unobjectionable.

POOR PERSONS PROCEDURE.

The Committee nominated under the Poor Persons Rules, 1925, have continued to carry on their work during the year.

Three meetings of the full committee were held during the year, and thirty-four meetings of the rota members. The number of applications to the committee was 409, a decrease of twenty-two compared with last year; certificates were granted in 119 cases, as against 147 in 1931—a decrease of twenty-eight. Ninety-four cases were disposed of during the year, the poor persons being successful in eighty-four cases, and unsuccessful in one case, while in nine cases the proceedings were abandoned by the applicants.

The committee tender their thanks to the members of the profession, both solicitors and barristers, who have co-operated in the work during the year.

The establishment of the Poor Persons Committee does not affect the work of the Poor Man's Lawyers' Association, which continues to give free legal advice as heretofore to persons too poor to pay for it. The committee and the Association work in concert, the Association transmitting to the committee cases which come to its notice of the kind that are dealt with by the Committee.

During the year several members have rendered valuable assistance in this work. The Honorary Secretary of the Association, Mr. F. C. Minshull, the Council House, Birmingham, will be glad to hear from any further members or senior articled clerks willing to give their services. The Society's representatives on the committee of the Association are Messrs. E. R. Bickley and Gardner Tyndall.

LEGAL EDUCATION.

A copy of the report of the Birmingham Board of Legal Studies for the year ended 31st August last shows that the total number of students is 105 (compared with ninety-three in the previous year), of whom fifty-two are reading for The Law Society's Examinations.

The Hardwicke Society.

The ex-President's debate of the Society was held in the Middle Temple Common Room on Friday, 24th February. The President, Mr. Vyvyan Adams, M.P., took the chair at 8.35 p.m. In public business Mr. Pembroke Wicks (ex-President) moved "That the good old days were bad." Mr. Constantine Gallop (ex-President) opposed. There spoke to the motion: Mr. Theobald Mathew (ex-President), Mr. G. E. Crawford (ex-President), Mr. W. W. Grantham (ex-President), Mr. Granville Sharp (ex-President), Mr. Buchan Ford (ex-President), Mr. Ifor Lloyd (ex-President), Mr. Colin Pearson (ex-President), Mr. James Petrie, Mr. Menzies, Mr. Stride (Hon. Secretary), and the hon. proposer in reply. On a division the motion was won by two votes.

Law Clerks' Debating Society.

At a meeting of the Society held in The Lord Chief Justice's Court, Law Courts, on Thursday, 23rd February, Mr. S. B. Emanuel took the chair and twenty-five members were present, the motion for debate being "That the custom of marriage by purchase should be restored." Mr. Ernest Hobbs opened in the affirmative. Mr. A. Percy Phelps opened in the negative. The following members also spoke: Messrs. Laxton, Heathcote-Williams, Lee, Emanuel, Constable, and Miss Josephine Wilkins. The openers having replied to and wound up the debate respectively, the motion was carried by four votes.

The Solicitors' Clerks' Pension Fund.

The third Annual Meeting of this Fund was held on Friday, 24th February, in the Court Room of The Law Society, at 60 Carey-street, London, W.C.2.

Sir ROGER GREGORY (who presided), said: "It is a pleasure to me, gentlemen, to appear here again to present to you the third annual report and statement of accounts of this Fund, which I think you will receive with satisfaction. They show that the Fund is a living and progressive institution. There are now 450 members of the Fund. Of course, some severe critics might say they expected a better response than that, but you must realise that the Fund is comparatively in its infancy. It is a fund that does make very adequate provision for the future, a provision better, I think it will be admitted, than you could hope for from any insurance company, and it must, I think, be a satisfaction to every man entering this profession, whether he be a clerk or a master, to know if he enters this Fund that his promises for the future are firm and adequately provided for. It eliminates those difficult problems as to what many years of faithful service have earned, or what is a fair sum to pay as a provision for a man's old age when he is no longer able to give of his best to his professional work. One of the most important points in this report is that one of the employers' representatives of the committee, Mr. Ingledew, of Cardiff, and three of the clerks' representatives, Mr. Stapley, Mr. Tindall and Mr. Mulraine are retiring. These gentlemen have borne the burden and heat of the day, putting this Fund on its legs, and they have given a vast amount of work and experience to this Fund. We gladly take this opportunity of thanking those gentlemen for all they have done to make this Pension Fund a working success. I think the accounts which you have before you speak for themselves. The balance sheet shows you on the assets side investments valued at £27,000, to which I think no one can make any objection, for they seem to be a first-class list of gilt-edged securities, and I think you will agree that these accounts are satisfactory reading, and show your Fund to be financially sound."

The adoption of the report and accounts was seconded and carried. New members of the committee were elected, and other business transacted.

The address of the Fund is 2, Stone-buildings, Lincoln's Inn, W.C.2, and a copy of the report and accounts will be forwarded on application.

The London School of Economics.

THE INTERPRETATION OF CRIMINAL LAW.

Mr. D. Seaborne Davies delivered a lecture at the London School of Economics on this subject on 21st February. He pointed out that the field was very much larger than that of any particular group of statutes, and was made exceptionally wide by the dependence of the criminal law upon nearly every branch of the civil law, and the extreme intricacy of the connections between case law, statute law, and books of authority. Owing to the multiplicity of the case law and statutes and to the extremely unsatisfactory character of many of the authoritative text-books, the criminal law had been developed haphazard without regard to general principles for seven centuries. For example, the development of the theory of criminal liability and of the admissible defences showed doubt and fluctuation; all the general defences were still governed by common law, and the extent of the major defences was still in doubt. It had not been settled whether infants were or were not liable for non-feasance; the extent of the defence of drunkenness was still uncertain even after Lord Birkenhead's exposition in *R.* v. *Beard*; the law on mental coercion had been changed by the Act of 1925, but the construction of the word "coerce" was still open; the absence of *mens rea* was still a subject for debate.

The history of English criminal law in the nineteenth and twentieth centuries threw into exceptionally sharp relief the nature of our machinery of law reform. The efforts of Bentham had led to the appointments of three different commissions in the 'thirties, the members of which had exerted Herculean efforts and produced eight volumes of reports. The Commission of 1845 had issued five reports and a series of draft bills almost amounting to a criminal code. No legislation had been passed before the Greaves Consolidation Acts of 1861, which made no attempt at codification. Various attempts to enact a code had failed in the later seventies. Several enactments had been passed in the first two decades of the present century in an attempt to retrieve the position, but the criminal law still lacked some of the most essential reforms advocated a hundred years ago. The Larceny Act, 1916, discarding the methods advocated by the Draft Code of 1879, perpetuated some of the worst features of the common law and some of the worst inconveniences which had so long encumbered it.

Objections to Codification.

The main obstacle to the wide amendment of the law had, he said, been the attitude of the judges towards codification. The commissioners of the nineteenth century had felt that one of the worst features of the law was its complete lack of unity or system and especially its accumulation of statutes passed "on the spur of the times." Nearly 700 statutes had been passed in the last century, and at least 170 during the present century. Archbold quoted 7,000 decided cases. This state of affairs could not help judges, especially in the lower courts, to discharge their functions. The commissioners had been much concerned with the complete lack of uniformity in the language of the law, the defects of drafting, the verbosity of statutes, and the lack of arrangement of the material. Although a mass of obsolete statutes had been repealed and drafting was better done, legislation by reference still flourished. The chief objection to the codification proposed by the Commissioners of 1879 had been that it would deprive the law of its elasticity. The Commissioners had argued that the existing system allowed far less elasticity than was supposed, and that elasticity as conceived in the minds of some critics was merely another name for uncertainty. The critics had, however, felt that a code would deprive them of some undefined but essential discretion. In particular, the opponents of the code had all protested that it would deprive English judges of the right they possessed under the common law to extend the sphere of the criminal law to cover new types of public mischief as they arose. Whatever the merits of the policy of preserving this right to the judges, it was not, in the lecturer's opinion, a sufficient argument for rejecting the work of the Commissioners.

THE STOCK EXCHANGE OFFICIAL INTELLIGENCE.

The 1933 edition of "The Stock Exchange Official Intelligence," the only book of reference that is issued by The Stock Exchange, will be published on 25th March.

Rules and Orders.

The Supreme Court Funds Rules, 1933. Dated February 15, 1933.

I, the Right Honourable John Viscount Sankey, Lord High Chancellor of Great Britain, with the concurrence of the Lords Commissioners of His Majesty's Treasury and in pursuance of the powers contained in section 146 of the Supreme Court of Judicature (Consolidation) Act, 1925,* and every other power enabling me in this behalf, hereby make the following Rules:—

1. Upon the 1st day of April, 1933, such amounts of money as on that date shall be standing to the credit of special accounts for unclaimed balances under Rule 97 shall be withdrawn from deposit.

2. The following paragraph shall be added to Rule 79 of the Supreme Court Funds Rules, 1927,† and shall stand as part of that Rule:—

"(*d*) When carried over to one of the accounts for unclaimed balances under Rule 97."

3. The words after "re-investment" in Rule 45 (1) shall be deleted and the following words shall be inserted in lieu thereof and shall stand as part of the Rule—

"or, from a date to be mentioned in the direction, to re-place on deposit money withdrawn under Rule 79 (*d*) or to invest and accumulate interest on funds carried over to an account of unclaimed balances under Rule 97."

4. These Rules may be cited as the Supreme Court Funds Rules, 1933, and shall come into operation on the 1st day of April, 1933, and the Supreme Court Funds Rules, 1927, as amended,‡ shall have effect as further amended by these Rules.

Dated the 15th day of February, 1933.

Sankey, C.

A. Lambert Ward,
Walter J. Womersley, } Lords Commissioners of His Majesty's Treasury.

* 15–6 G. 5. c. 49. † S.R. & O. 1927 (No. 1184) p. 1638.
‡ *See* S.R. & O. 1931 (No. 459) p. 1239.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to confer the dignity of a Viscount of the United Kingdom upon The Right Honourable Stanley Owen Baron Buckmaster, G.C.V.O., by the name, style and title of Viscount Buckmaster of Cheddington in the County of Buckingham.

The King received Mr. Rollo Graham-Campbell, the Chief Metropolitan Magistrate, at Buckingham Palace last Saturday, and conferred on him the honour of knighthood.

The King has been pleased to approve the appointment of Mr. Arthur Frederick Clarence Webber, Puisne Judge, Nigeria, to be Chief Justice of Sierra Leone in succession to Sir Mervyn Tew, who recently retired from that post. Mr. Webber was called to the Bar at the Inner Temple in 1896, and became a Puisne Judge in Southern Nigeria in 1909.

The King has been pleased to approve, on the recommendation of the Lord Chancellor, the name of Mr. Charles Paley Scott, for appointment to the rank of King's Counsel. Mr. Scott was called to the Bar by the Inner Temple in 1906, and joined the North-Eastern Circuit. Since 1923 he has been Recorder of Doncaster.

The King has been pleased, on the recommendation of the Secretary of State for Scotland, to approve the appointment of Mr. John Robert Dickson, K.C., presently Clerk of Justiciary in Scotland, to be Sheriff of Argyll in the room of Mr. John Lean Wark, K.C., appointed to be one of the Senators of the College of Justice in Scotland.

Mr. E. Martin Gover, solicitor, of Monument-street, has been elected a member of the Corporation of London for the Ward of Bridge, in the room of Mr. T. Howard Deighton, deceased. Mr. Gover, who was admitted a solicitor in 1907, is a partner in the firm of Messrs. Henry Gover & Son, of Monument-street, E.C., Croydon and Wallington.

Mr. T. J. Urwin, solicitor, Legal Assistant in the Town Clerk's Office, Bristol, has been appointed Chief Assistant Town Clerk at Bristol in succession to Mr. G. W. Marks, who has been appointed Town Clerk of Canterbury. Mr. Urwin was admitted a solicitor in 1926.

Mr. William Furness, solicitor, of Manchester, left £9,595, with net personalty £7,523.

Professional Announcements.

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Wills and Bequests.

Mr. Julius Kingsford, solicitor, of Ashford, left £17,418, with net personalty £13,428.

Mr. Thomas Litton Taylor, J.P., solicitor, of Ealing, formerly of Essex-street, W.C., left £15,099, with net personalty £14,897.

CERTIFIED ACCOUNTANTS.

The next examinations of the London Association of Accountants will be held on 6th, 7th and 8th June, in London, Glasgow, Edinburgh, Newcastle, Birmingham, Belfast, Cork, Dublin, Leeds, Sheffield, Manchester, Liverpool, Cardiff, Bristol, Nottingham, Hull and Plymouth. Women are eligible under the Association's regulations to qualify as certified accountants upon the same terms and conditions as are applicable to men. Particulars and forms are obtainable at the office of the Association, 50, Bedford-square, London, W.C.1.

LONDON MAGISTERIAL CHANGES.

The following changes in the sittings of the Metropolitan Magistrates have taken effect as from Monday last, consequent upon the recent retirement of Sir Chartres Biron as Chief Magistrate :—

Mr. J. A. R. Cairns from the Marylebone Police Court to Westminster.

Mr. Ivan E. Snell from Old-street to Marylebone.

Mr. H. Metcalfe from the Greenwich and Woolwich Courts to Old-street.

Mr. William E. Dickson (newly appointed) to Greenwich and Woolwich.

Two other recent changes have been the transfer of Mr. R. E. Dummett from the Marylebone Police Court to Bow-street, and of Mr. E. C. P. Boyd from Westminster to Marlborough-street.

COUNSEL'S FEES IN NEW PROCEDURE CASES.

Mr. Justice Swift, in the course of dealing with summonses recently under the New Procedure Rules, said, according to *The Times*, that it must be understood that in such summonses the fee for counsel appearing in the case was to be the normal fee of two guineas. Of course there were often cases in which it was necessary that that fee should be increased by the addition of a conference, and then the allowance would be two guineas and one guinea. But in ordinary cases, without special order of the Court, the fee he would allow would be two guineas. In the event of counsel wanting a conference they must ask for it, and if for some particular reason they wanted the fee to exceed two guineas they should mention the fact.

His lordship added that he thought that it was very desirable that counsel should attend on the summons for directions, because it often happened that questions arose unexpectedly and could then be decided at once; but they must be reasonable in such matters.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Witness. Part II.	MR. JUSTICE MAUGHAM. Witness. Part I.
M'nd'y Mar. 6	Mr. Hicks Beach	Mr. Ritchie	Mr. Ritchie	Mr.*Andrews
Tuesday .. 7	Andrews	Blaker	*Andrews	*More
Wednesday 8	Jones	More	More	*Ritchie
Thursday . 9	Ritchie	Hicks Beach	*Ritchie	Andrews
Friday 10	Blaker	Andrews	Andrews	*More
Saturday .. 11	More	Jones	More	Ritchie
	GROUP I. MR. JUSTICE BENNETT. Non-Witness.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness. Part II.
M'nd'y Mar. 6	Mr. More	Mr.*Blaker	Mr. Jones	Mr.*Hicks Beach
Tuesday .. 7	Ritchie	*Jones	Hicks Beach	Blaker
Wednesday 8	Andrews	*Hicks Beach	Blaker	*Jones
Thursday . 9	More	*Blaker	Jones	Hicks Beach
Friday 10	Ritchie	Jones	Hicks Beach	*Blaker
Saturday .. 11	Andrews	Hicks Beach	Blaker	Jones

* The Registrar will be in Chambers on these days, and also on the days when the Court not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement Thursday, 9th March, 1933.

	Div. Months.	Middle Price 1 Mar. 1933.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	107½	3 14 5	3 10 7
Consols 2½%	JAJO	74	3 7 7	—
War Loan 3½% 1952 or after ..	JD	99½	3 10 6	—
Funding 4% Loan 1960-90	MN	110½	3 12 5	3 8 0
Victory 4% Loan (Available for Estate Duty at par) Av. life 29 years	MS	107¾xd	3 14 3	3 11 4
Conversion 5% Loan 1944-64 ..	MN	117½	4 5 1	3 2 0
Conversion 4½% Loan 1940-44 ..	JJ	111	4 1 1	2 17 0
Conversion 3½% Loan 1961 or after ..	AO	98¼xd	3 11 3	—
Conversion 3% Loan 1948-53 ..		97	3 1 10	3 4 1
Local Loans 3% Stock 1912 or after ..	JAJO	86½	3 9 6	—
Bank Stock	AO	333½	3 11 11	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	77	3 11 5	—
India 4½% 1950-55	MN	110	4 1 10	3 13 11
India 3½% 1931 or after	JAJO	88½	3 19 1	—
India 3% 1948 or after	JAJO	76	3 18 11	—
Sudan 4½% 1939-73	FA	110	4 1 10	2 13 6
Sudan 4% 1974 Red. in part after 1950	MN	108	3 14 1	3 8 0
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	100	3 0 0	3 0 0
COLONIAL SECURITIES				
*Australia (Commonw'th) 5% 1945-75	JJ	106	4 14 4	4 7 0
*Canada 3½% 1930-50	JJ	100	3 10 0	3 10 0
*Cape of Good Hope 3½% 1929-49 ..	JJ	100	3 10 0	3 10 0
Natal 3% 1929-49	JJ	95	3 3 2	3 8 2
New South Wales 3½% 1930-50 ..	JJ	94	3 14 6	3 19 10
*New South Wales 5% 1945-65 ..	JD	106	4 14 4	4 7 9
New Zealand 4½% 1948-58	MS	108	4 3 4	3 15 10
*New Zealand 5% 1946	JJ	110	4 10 11	4 0 0
Nigeria 5% 1950-60	FA	112	4 9 3	4 0 2
*Queensland 4% 1940-50	AO	101	3 19 2	3 16 11
*South Africa 5% 1945-75	JJ	110	4 10 11	3 18 9
*South Australia 5% 1945-75 ..	JJ	106	4 14 4	4 7 0
*Tasmania 3½% 1920-40	JJ	99	3 10 8	3 13 4
Victoria 3½% 1929-49	AO	96	3 12 11	3 16 5
*W. Australia 4% 1942-62	JJ	100	4 0 0	4 0 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after ..	JJ	85	3 10 7	—
Birmingham 4½% 1948-68	AO	110xd	4 1 10	3 13 3
*Cardiff 5% 1945-65	MS	110xd	4 10 11	3 18 9
Croydon 3% 1940-60	AO	93	3 4 6	3 8 0
*Hastings 5% 1947-67	AO	113½	4 8 1	3 14 9
Hull 3½% 1925-55	FA	98	3 11 5	3 12 8
Liverpool 3½% Redeemable by agreement with holders or by purchase ..	JAJO	98	3 11 5	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	73	3 8 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	86	3 9 9	—
Manchester 3% 1941 or after ..	FA	85	3 10 7	—
Metropolitan Consd. 2½% 1920-49 ..	MJSD	91	2 14 11	3 4 7
Metropolitan Water Board 3% "A" 1963-2003	AO	88	3 8 2	3 9 1
Do. do. 3% "B" 1934-2003 ..	MS	89	3 7 5	3 8 4
Do. do. 3% "E" 1953-73 ..	JJ	92¼	3 5 0	3 7 2
*Middlesex C.C. 3½% 1927-47 ..	FA	101	3 9 4	—
Do. do. 4½% 1950-70	MN	112	4 0 4	3 11 7
Nottingham 3% Irredeemable ..	MN	85	3 10 7	—
*Stockton 5% 1946-66	JJ	109½	4 11 4	4 1 10
ENGLISH RAILWAY PRIOR CHARGES				
Gt. Western Rly. 4% Debenture ..	JJ	101½	3 18 10	—
Gt. Western Rly. 5% Rent Charge ..	FA	114½	4 7 4	—
Gt. Western Rly. 5% Preference ..	MA	76½	6 10 9	—
‡L. & N.E. Rly. 4% Debenture ..	JJ	81½	4 18 2	—
‡L. & N.E. Rly. 4% 1st Guaranteed	FA	59½	6 14 6	—
London Electric 4% Debenture ..	JJ	103½	3 17 4	—
‡L. Mid. & Scot. Rly. 4% Debenture ..	JJ	90½	4 8 5	—
‡L. Mid. & Scot. Rly. 4% Guaranteed	MA	73½	5 8 10	—
Southern Rly. 4% Debenture ..	JJ	99½	4 0 5	—
Southern Rly. 5% Guaranteed ..	MA	107½	4 13 0	—
Southern Rly. 5% Preference ..	MA	80½	6 4 3	—

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other stocks, as at the latest date.

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